

ESTTA Tracking number: **ESTTA768024**

Filing date: **08/31/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	UMAREX GmbH & Co. KG
Granted to Date of previous extension	08/31/2016
Address	Donnerfeld 2 Arnsberg, 59757 GERMANY
Party who filed Extension of time to oppose	Umarex GmbH & Co., KG
Relationship to party who filed Extension of time to oppose	Minor changes to punctuation and capitalization; entity remains the same

Name	Carl Walther GmbH
Granted to Date of previous extension	08/31/2016
Address	Im Lehrer Feld 1 Ulm, 89081 GERMANY

Attorney information	Stephen R. Baird Winthrop & Weinstine, P.A. 225 South Sixth Street Capella Tower, Suite 3500 Minneapolis, MN 55402 UNITED STATES trade- mark@winthrop.com,wanderson@winthrop.com,jbriley@winthrop.com,sbaird@winthrop.com
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Applicant Information

Application No	86824552	Publication date	05/03/2016
Opposition Filing Date	08/31/2016	Opposition Period Ends	08/31/2016
Applicant	Herriger, Catharina Route du Village 12 Bursinel, 1195 SWITZERLAND		


Goods/Services Affected by Opposition

Class 014. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Jewellery and watches

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
The mark is primarily geographically descriptive	Trademark Act Section 2(e)(2)
The mark is primarily geographically deceptively misdescriptive	Trademark Act Section 2(e)(3)
No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Deceptiveness	Trademark Act Section 2(a)
Registration barred by claim or issue preclusion	Mayer/Berkshire Corp. v. Berkshire Fashions Inc., 424 F.3d 1229, 76 USPQ2d 1310 (Fed. Cir. 2005)

Marks Cited by Opposer as Basis for Opposition

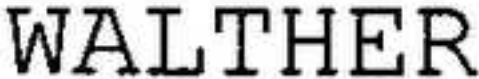
U.S. Registration No.	303701	Application Date	10/06/1932
Registration Date	06/06/1933	Foreign Priority Date	NONE
Word Mark	WALTHER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U009 (International Class 013, 034). First use: First Use: 1910/00/00 First Use In Commerce: 1910/00/00 [HOWITZERS, FIELD PIECES, CANNONS, ARTILLERY GUNS, MORTARS, ANTI-AIRCRAFT GUNS, TOPEDO TUBES,] MILITARY RIFLES[, CARBINES,]HUNTING RIFLES, [SHOT GUNS,] PISTOLS,[REVOLVERS, MACHINE GUNS,] GUNS FOR SHOOTING SIGNALS ROCKETS AND FLARES,[GUNS FOR SHOOTING LIQUID FIRE, GUNS FOR SHOOTING GAS GRENADES AND BOMBS, GUNS FOR SHOOTING HARPOONS, LIFE SAVING GUNS,] ADULT AIR GUNS ADULT PISTOLS, AND ADULT CAPPISTOLS, ADULT CAP GUNS[; TORPEDOS, DYNAMITE, AIR BOMBS, BOMBS, SHELLS, ROCKETS,HAND GRENADES, MINES AND DEPTH BOMBS]		


U.S. Registration No.	1120867	Application Date	02/01/1974
Registration Date	06/26/1979	Foreign Priority Date	NONE
Word Mark	WALTHER		

Design Mark	WALTHER
Description of Mark	NONE
Goods/Services	Class 007. First use: First Use: 1952/00/00 First Use In Commerce: 1952/00/00 MACHINE TOOLS-NAMELY, AUTOMATIC SLOT MILLING MACHINES Class 013. First use: First Use: 1952/00/00 First Use In Commerce: 1952/00/00 HUNTING AND SPORT RIFLES, PISTOLS, REVOLVERS AND SHOT GUNS

U.S. Registration No.	2714985	Application Date	11/29/2000
Registration Date	05/13/2003	Foreign Priority Date	10/20/2000
Word Mark	WALTHER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2000/10/01 First Use In Commerce: 2000/10/01 [Chemical products for defense, namely, tear gas and combinations of irritant substances, liquid, gaseous or pulverized, also in the form of sprays and for use in pistols and spray devices] Class 008. First use: First Use: 2000/10/01 First Use In Commerce: 2000/10/01 Sport knives, knives for use in huntingand fishing, pocket knives [and par-ingknives] Class 009. First use: First Use: 2000/10/01 First Use In Commerce: 2000/10/01 Telescopes, telescopic gun and lens sights, night glasses for use in hunting Class 013. First use: First Use: 2000/10/01 First Use In Commerce: 2000/10/01 Weapons for self defense, namely, pistols [spray devices and spray cans each filled with tear gasses irritant substance and solution of irritant substance, especially on the basis of spices] Class 014. First use: First Use: 2000/10/01 First Use In Commerce: 2000/10/01 [Watches and Clocks]		

U.S. Registration No.	2909647	Application Date	05/02/2003
Registration Date	12/14/2004	Foreign Priority Date	NONE

Word Mark	WALTHER
Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1996/01/00 First Use In Commerce: 2003/05/00 Toy weapons; toy replicas of weapons; [toy model kits of weapons; toy decorative weapons]

U.S. Registration No.	2912154	Application Date	05/02/2003
Registration Date	12/21/2004	Foreign Priority Date	NONE
Word Mark	WALTHER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1996/01/00 First Use In Commerce: 2003/05/00 Toy weapons; toy replicas of weapons; [toy model kits of weapons; toy decorative weapons]		

Related Proceedings	91215976
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Attachments	71331019#TMSN.png(bytes) 73012340#TMSN.png(bytes) 76174436#TMSN.png(bytes) 76511118#TMSN.png(bytes) 76511116#TMSN.png(bytes) NOO As Filed.pdf(5364055 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/WDA/
Name	Wesley D. Anderson
Date	08/31/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No.: 86/824,552
Filed: November 18, 2015
For the mark: WALTHER SWITZERLAND
Published in the *Trademark Official Gazette* on May 3, 2016

Carl Walther GmbH and
UMAREX GmbH & Co. KG,

Opposers,

v.

Opposition No. _____

Catharina Herriger,

Applicant

NOTICE OF OPPOSITION

Carl Walther GmbH and UMAREX GmbH & Co. KG (collectively, “Opposers”) believe that they will be damaged by registration of the WALTHER SWITZERLAND mark in Application Serial No. 86/824,552 (the “Application”) and hereby oppose registration of the Application. The grounds for opposition are as follows:

1. Catharina Herriger (“Applicant”) has applied to register the WALTHER SWITZERLAND as a trademark (“Applicant’s Proposed Mark”) in connection with “jewellery and watches” in International Class 14 (“Applicant’s Proposed Goods”).
2. Upon information and belief, Applicant is a Swiss national and the listed correspondence address for Applicant in the Application is a Swiss address.
3. Applicant’s filing date for the Application is November 18, 2015 (“Applicant’s Filing Date”).

4. Upon information and belief, Applicant cannot claim any rights in the WALTHER SWITZERLAND mark prior to Applicant's Filing Date.

5. The Application was published for opposition in the *Trademark Official Gazette* on May 3, 2016. On June 2, 2016, the Board granted Opposers' requests to extend the time to oppose registration of the Application until August 31, 2016.

6. Opposers are well-known and famous designers, manufacturers and distributors of personal defense products, shooting sports products, toy firearms, replicas of firearms and related goods and accessories (including watches and jewelry items) under the iconic WALTHER brand for more than 100 years. Opposers have worldwide recognition. For decades, the WALTHER PPK® and P99® pistols have been widely known and publicized as the handguns of choice for the James Bond character in both film and literary works.

7. Opposers own numerous federal registrations and common-law rights in the United States for the trademark WALTHER both by itself and in combination with a Ribbon Design (collectively, "Opposers' Marks") for use in connection with a broad variety of goods, including knives, telescopes, pistols, rifles, guns, and toy weapons, among others. Status and title copies of several of Opposers' registrations cited below are attached hereto as Exhibit A.

8. Opposer UMAREX GmbH & Co. KG is the record owner of incontestable U.S. Trademark Registration No. 303,701 for the WALTHER & Ribbon Design (shown below) for use in connection with "military rifles, hunting rifles, pistols, guns for shooting signals, rockets and flares, adult air guns, adult pistols, and adult cap pistols, adult cap guns" in International Class 13. The Registration was issued on the Principal Register on June 6, 1933. The filing date of the Registration is October 6, 1932. A fifth Combined Declaration of Use and Renewal was filed on April 8, 2013 and accepted on April 9, 2013.

9. Opposer UMAREX GmbH & Co. KG is the record owner of incontestable U.S. Trademark Registration No. 1,120,867 for the trademark WALTHER for use in connection with “hunting and sport rifles, pistols, revolvers and shot guns” in International Class 13. The Registration was issued on the Principal Register on June 26, 1979. The filing date of the Registration is February 1, 1974. A second Combined Declaration of Use and Renewal was filed on April 22, 2009 and accepted on April 24, 2009.

10. Opposer UMAREX GmbH & Co. KG is the record owner of incontestable U.S. Trademark Registration No. 2,912,154 for the trademark WALTHER & Ribbon Design for use in connection with “toy weapons and toy replicas of weapons” in International Class 28. The Registration was issued on the Principal Register on December 21, 2004. The filing date of the Registration is May 2, 2003. A Combined Declaration of Use and Incontestability was filed on December 7, 2010 and accepted on December 28, 2010.

11. Opposer UMAREX GmbH & Co. KG is the record owner of incontestable U.S. Trademark Registration No. 2,909,647 for the trademark WALTHER for use in connection with “toy weapons and toy replicas of weapons” in International Class 28. The Registration was issued on the Principal Register on December 14, 2004. The filing date of the Registration is May 2, 2003. A Combined Declaration of Use and Incontestability was filed on December 7, 2010 and accepted on December 28, 2010. A Combined Declaration of Use and Renewal was filed on February 21, 2014 and accepted on March 12, 2014.

12. Opposer UMAREX GmbH & Co. KG is the record owner of incontestable U.S. Trademark Registration No. 2,714,985 for the trademark WALTHER & Ribbon Design for use in connection with “sport knives, knives for use in hunting and fishing, pocket knives” in International Class 8, “telescopes, telescopic gun and lens sights, night glasses for use in

hunting” in International Class 9, and “weapons of self defense, namely, pistols” in International Class 13. The Registration was issued on the Principal Register on May 13, 2003. The filing date of the Registration is November 29, 2000. The foreign priority date of the Registration is October 20, 2000. As registered, the Registration also covered “watches and clocks” in International Class 14, but these items were deleted from the registration when the Combined Declaration of Use and Incontestability was filed on May 6, 2009 and accepted on May 29, 2009. A Combined Declaration of Use and Renewal was filed on April 17, 2013 and accepted on May 29, 2013.

13. Opposer Carl Walther GmbH further is the owner of common law trademark rights, dating well prior to Applicant’s Filing Date, in the WALTHER word mark and the WALTHER & Ribbon Design trademark for a wide variety of goods including personal defense products, shooting sports products, toy firearms, replicas of firearms and related goods and accessories (including watches and jewelry items), and other gift items.

14. Opposers have expended considerable time, effort and expense in promoting, advertising and popularizing the WALTHER brand and Opposers’ inherently distinctive trademarks, dating back well prior to the filing date of the Application.

15. Consumers have come to know, rely upon and recognize, the iconic WALTHER trademark and Opposers’ Marks as strong indicators of the source of Opposers’ goods.

16. The WALTHER brand and Opposers’ Marks have achieved widespread public recognition such that they are commercially strong, well-known and famous.

17. Applicant has repeatedly evidenced her intent to reserve rights in Opposers’ Marks and disrupt Opposers’ business.

18. Upon information and belief, Applicant was well aware of Opposers and Opposers' Marks as of Applicant's Filing Date.

19. Upon information and belief, Applicant claims to be the great-great-granddaughter of Carl Walther, the founder of Carl Walther GmbH's predecessor entity.

20. Applicant applied for the WALTHER SWITZERLAND mark only after a prior-filed intent-to-use application for the mark WALTHER was refused registration following summary judgment in an opposition filed by Opposers, Proceeding No. 91215976.

21. On June 20, 2013, Applicant applied to register the mark WALTHER (Serial No. 85/965,933), identical to Opposers' WALTHER mark, in connection with Applicant's Proposed Goods, that is, "jewellery and watches."

22. On June 22, 2015, following discovery, the Trademark Trial and Appeal Board ruled in favor of Opposers on summary judgment, stating "Applicant has failed to raise a genuine dispute as to any material fact with regard to Opposers' likelihood of confusion claim against the application to register Applicant's [WALTHER] word mark."

23. The Board thereby entered judgment against Applicant refusing registration of Applicant's WALTHER word mark. The Board's June 22, 2015 decision granting summary judgment is attached hereto as Exhibit B.

24. Accordingly, Applicant has had judgment entered against her application for the WALTHER trademark.

25. Nevertheless, Applicant's intent to disrupt Opposers' business and reserve rights in the WALTHER mark remains, as evidenced by her subsequent application for the mark WALTHER SWITZERLAND, despite the preclusive effect of the Board's prior judgment, likelihood of confusion with Opposers' Marks, the likelihood of diluting Opposers' Marks, her

lack of good faith bona fide intent to in fact use the WALTHER SWITZERLAND mark in the United States, and the geographic deceptiveness of the wording SWITZERLAND (if not mere descriptiveness) in this context. Accordingly, this opposition should be sustained on these grounds.

COUNT ONE

Preclusion

26. Opposers hereby restate and reallege allegations 1 through 25 above as if made fully herein below.

27. Opposers have already gone to the significant time and expense to obtain judgment against Applicant as to the WALTHER word mark in summary judgment for Proceeding No. 91215976.

28. The Board has already ruled, in a final judgment on the merits, to deny registration Applicant's prior-filed application for WALTHER, Serial No. 85/965,933, on grounds that the mark is likely to cause consumer confusion with Opposers' Marks.

29. Applicant's addition of the wording "SWITZERLAND" is an insignificant modification of the "WALTHER" trademark.

30. The WALTHER SWITZERLAND trademark is materially identical to Applicant's prior-filed WALTHER trademark.

31. The goods identified in Applicant's prior application for WALTHER, Serial No. 85/965,933, are identical to Applicant's Proposed Goods in the Application, that is, "jewellery and watches."

32. The same parties or their privies are involved in both Proceeding No. 91215976 and the instant proceeding, namely, the only difference among any party is a name change for Opposer UMAREX GmbH & Co. KG to remove the wording "Sportwaffen."

33. All questions of fact and law have already been determined in Proceeding No. 91215976, and no circumstances or conditions have materially changed.

34. The Board's judgment in Proceeding No. 91215976 operates as issue preclusion as to the issue of likelihood of confusion between Applicant's Proposed Mark and Opposers' Marks.

35. The Board's judgment in Proceeding No. 91215976 operates as claim preclusion or *res judicata* in the instant opposition proceeding, and the Board's prior decision is dispositive as to the Application.

36. The doctrines of claim preclusion, *res judicata*, and issue preclusion preclude registration to Applicant of Applicant's Proposed Mark.

COUNT TWO

Likelihood of Confusion – Trademark Act Section 2(d)

37. Opposers hereby restate and reallege allegations 1 through 36 above as if made fully herein below.

38. Applicant's Proposed Mark so resembles Opposers' Marks, which have been used in U.S. commerce well prior to Applicant's Filing Date, as to be likely, when used in connection with Applicant's Proposed Goods, to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposers or as to the origin, sponsorship, or approval of Applicant's Proposed Goods by Opposers.

39. Applicant's Proposed Goods are highly related to the goods offered under Opposers' Marks.

40. Opposers have distributed items such as jewelry, lapel pins, clocks, and watches in the United States bearing Opposers' Marks.

41. Applicant's goods, jewelry and watches, as well as other gift products are offered by other firearm manufacturers similar to and competitive with Opposers under their house mark or design logo.

42. Applicant's Proposed Goods are likely to travel and be promoted through the same or similar channels of trade as the goods offered under Opposers' Marks.

43. Applicant's Proposed Goods and the goods offered under Opposers' Marks are likely to be sold to identical or overlapping consumers and classes of consumers.

44. Applicant's proposed WALTHER SWITZERLAND mark is confusingly similar to Opposers' WALTHER mark.

45. Applicant's proposed WALTHER SWITZERLAND mark is virtually identical in sight, sound and commercial impression to Opposers' Marks, sharing the dominant term "WALTHER."

46. The geographically descriptive (or deceptively misdescriptive) term SWITZERLAND does not distinguish Applicant's WALTHER SWITZERLAND mark from Opposers' Marks, including the WALTHER mark.

47. Consumers and prospective consumers are likely to be confused by Applicant's WALTHER SWITZERLAND mark as the mark is confusingly similar to Opposers' Marks and Opposers' WALTHER mark.

48. Applicant's WALTHER SWITZERLAND Mark so resembles Opposers' Marks as to be likely, when used on or in connection with Applicant's Proposed Goods, to cause confusion, to cause mistake, or to deceive consumers.

49. Upon information and belief, Applicant intends to capitalize upon the substantial good will associated with Opposers' iconic, distinctive, well-known, and famous Opposers' Marks by reserving rights in the confusingly similar mark WALTHER SWITZERLAND.

50. Upon information and belief, Applicant is aware of Opposers and their longstanding and prior use of Opposers' Marks both in the United States and abroad.

51. Upon information and belief, Applicant sought to register the WALTHER SWITZERLAND mark in bad faith.

52. In addition to the iconic WALTHER brand, numerous other firearm and personal defense brands have extended the use of and/or licensed the use of their brands and underlying trademarks to become associated with related goods such as watches and jewelry, among others, so that consumers and prospective consumers are likely to assume a connection exists.

53. Because Applicant's WALTHER SWITZERLAND mark is confusingly similar to Opposers' Marks and because Applicant's Proposed Goods are related to the goods offered under Opposers' Marks, purchasers and prospective purchasers are likely to mistakenly believe that the goods Applicant intends to offer under the WALTHER SWITZERLAND mark is sponsored, endorsed, or approved by Opposers, or are in some other way affiliated, connected, or associated with Opposers, all to the detriment of Opposers pursuant to Section 2(d) of the Trademark Act, 15, U.S.C. § 1052(d).

54. Registration of the mark shown in the Application should therefore be refused under 15 U.S.C. § 1052(d).

COUNT THREE

Dilution – Trademark Act Section 43(c)

55. Opposers hereby restate and reallege allegations 1 through 54 above as if made fully herein below.

56. Opposers' Marks are famous pursuant to 15 U.S.C. § 1125(c) and were so at least as early as the claimed filing date of Applicant's WALTHER SWITZERLAND Mark namely, by November 18, 2015.

57. In addition to being confusingly similar, Applicant's WALTHER SWITZERLAND mark is likely to dilute the distinctive quality of Opposers' Marks.

58. Applicant's WALTHER SWITZERLAND mark so resembles Opposers' prior-used and famous trademarks bearing the WALTHER mark as to dilute or to be likely to cause dilution of the distinctive quality of Opposers' Marks by blurring under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

59. Registration of Applicant's Proposed Marks should, therefore, be refused not only under 15 U.S.C. § 1052(d), but also under 15 U.S.C. § 1125(c).

COUNT FOUR

Lack of Bona Fide Intent – Trademark Act Section 1(b)

60. Opposers hereby restate and reallege allegations 1 through 59 above as if made fully herein below.

61. Upon information and belief, Applicant has not made use in commerce of the WALTHER SWITZERLAND mark in connection with any goods or services.

62. Upon information and belief, any use by Applicant of the WALTHER SWITZERLAND has been made solely to reserve rights in the mark and does not constitute a bona fide use of the WALTHER SWITZERLAND mark in commerce in the ordinary course of trade.

63. Upon information and belief, as of Applicant's Filing Date and at any time thereafter, Applicant never had and has no bona fide intent to use in commerce the WALTHER SWITZERLAND mark in connection with any goods or services.

64. Upon information and belief, as of Applicant's Filing Date and at any time thereafter, Applicant never had and has no bona fide intent to use in commerce the WALTHER SWITZERLAND mark in connection with "watches."

65. Upon information and belief, as of Applicant's Filing Date and at any time thereafter, Applicant never had and has no bona fide intent to use in commerce the WALTHER SWITZERLAND mark in connection with "jewellery."

66. Due to a lack of good faith bona fide intent to use the WALTHER SWITZERLAND mark in U.S. commerce, Applicant's Application is void *ab initio* pursuant to Trademark Act Section 1(b), 15 U.S.C. § 1051(b).

COUNT FIVE

Deceptiveness – Trademark Act Section 2(a)

67. Opposers hereby restate and reallege allegations 1 through 66 above as if made fully herein below.

68. The primary significance of the WALTHER SWITZERLAND mark is the generally known geographic location SWITZERLAND. The mark consists of or incorporates a term that denotes a geographical location which is neither obscure nor remote.

69. Upon information and belief, any goods produced by Applicant, to the extent any have been produced, will not originate in Switzerland.

70. Switzerland is a European country well known among United States consumers as a source of watches and jewellery, that is, Applicant's Proposed Goods.

71. Purchasers would be likely to believe that Applicant's Proposed Goods, to the extent any would ever be produced, originate in Switzerland, the geographic place identified in the mark.

72. This misrepresentation would be a material factor in a significant portion of the relevant consumers' decision to purchase Applicant's Proposed Goods, to the extent any would ever be produced or sold.

73. Accordingly, Applicant's Proposed Mark is deceptive under Section 2(a) of the Trademark Act and registration should therefore be refused pursuant to 15 U.S.C. § 1052(a).

COUNT SIX

Geographic Deceptive Misdescriptiveness – Trademark Act Section 2(e)(3)

74. Opposers hereby restate and reallege allegations 1 through 73 above as if made fully herein below.

75. The primary significance of the WALTHER SWITZERLAND mark is the generally known geographic location SWITZERLAND. The mark consists of or incorporates a term that denotes a geographical location which is neither obscure nor remote.

76. Upon information and belief, any goods produced by Applicant, to the extent any have been produced, will not originate in Switzerland.

77. Switzerland is a European country well known among United States consumers as a source of watches and jewellery, that is, Applicant's Proposed Goods.

78. Purchasers would be likely to believe that Applicant's Proposed Goods, to the extent any would ever be produced, originate in Switzerland, the geographic place identified in the mark.

79. This misrepresentation would be a material factor in a significant portion of the relevant consumers' decision to purchase Applicant's Proposed Goods, to the extent any would ever be produced or sold.

80. Accordingly, Applicant's WALTHER SWITZERLAND mark is geographically deceptively misdescriptive under Section 2(e)(3) of the Trademark Act, and registration should therefore be refused pursuant to 15 U.S.C. § 1052(e)(3).

COUNT SEVEN

Geographic Descriptiveness – Trademark Act Section 2(e)(2)

81. Opposers hereby restate and reallege allegations 1 through 80 above as if made fully herein below.

82. The primary significance of the WALTHER SWITZERLAND mark is the generally known geographic location SWITZERLAND. The mark consists of or incorporates a term that denotes a geographical location which is neither obscure nor remote.

83. Switzerland is a European country well known among United States consumers as a source of watches and jewellery, that is, Applicant's Proposed Goods.

84. To the extent any of Applicant's Proposed Goods will originate in Switzerland, Purchasers would be likely to believe that Applicant's Proposed Goods, to the extent any would ever be produced, originate in Switzerland, the geographic place identified in the mark.

85. Accordingly, Applicant's WALTHER SWITZERLAND mark is geographically descriptive under Section 2(e)(2) of the Trademark Act, and registration should therefore be refused pursuant to 15 U.S.C. § 1052(e)(2).

WHEREFORE, Opposer prays that Application Serial No. 86/824,552 be rejected, that registration of the mark therein for the goods therein specified be refused, and that the present opposition be sustained.

Dated: August 31, 2016

WINTHROP & WEINSTINE, P.A.



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(612) 604-6800 (Facsimile)

Attorneys for Opposers Carl Walther GmbH
and UMAREX GmbH & Co. KG

12395995v1

EXHIBIT A

Generated on: This page was generated by TSDR on 2016-08-31 15:06:13 EDT

Mark: WALTHER



US Serial Number: 71331019

Application Filing Date: Oct. 06, 1932

US Registration Number: 303701

Registration Date: Jun. 06, 1933

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Apr. 09, 2013

Mark Information

Mark Literal Elements: WALTHER

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Design Search Code(s): 24.09.07 - Banners; Advertising, banners

Related Properties Information

Claimed Ownership of US Registrations: 0333352

Publish Previously Registered Mark: Yes

Previously Registered Mark Publication Date: Feb. 02, 1960

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: [HOWITZERS, FIELD PIECES, CANNONS, ARTILLERY GUNS, MORTARS, ANTI-AIRCRAFT GUNS, TOPEDO TUBES,] MILITARY RIFLES[, CARBINES,]HUNTING RIFLES, [SHOT GUNS,] PISTOLS,[REVOLVERS, MACHINE GUNS,] GUNS FOR SHOOTING SIGNALS ROCKETS AND FLARES,[GUNS FOR SHOOTING LIQUID FIRE, GUNS FOR SHOOTING GAS GRENADES AND BOMBS, GUNS FOR SHOOTING HARPOONS, LIFE SAVING GUNS,] ADULT AIR GUNS ADULT PISTOLS, AND ADULT CAPPISTOLS, ADULT CAP GUNS[, TORPEDOS, DYNAMITE, AIR BOMBS, BOMBS, SHELLS, ROCKETS, HAND GRENADES, MINES AND DEPTH BOMBS]

International Class(es): 013, 034

U.S Class(es): 009 - Primary Class

Class Status: ACTIVE

Basis: 1(a)

First Use: 1910

Use in Commerce: 1910

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: UMAREX GMBH & CO. KG

Owner Address: DONNERFELD 2
ARNSBERG 59757
GERMANY

Legal Entity Type: KOMMANDITGESELLSCHAFT (KG)

State or Country: GERMANY
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Stephen R. Baird

Docket Number: 13132.26

Attorney Primary Email Address: trademark@winthrop.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Stephen R. Baird
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Phone: (612) 604-6585

Fax: (612) 604-6985

Correspondent e-mail: trademark@winthrop.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Stephen R. Baird

Phone: (612) 604-6585

Fax: (612) 604-6985

Domestic Representative e-mail: sbaird@winthrop.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Aug. 03, 2016	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Apr. 09, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Apr. 09, 2013	REGISTERED AND RENEWED (FIFTH RENEWAL - 10 YRS)	68335
Apr. 09, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	68335
Apr. 08, 2013	TEAS SECTION 8 & 9 RECEIVED	
Jun. 24, 2009	REVIEW OF CORRESPONDENCE COMPLETE	61619
Oct. 06, 2008	CASE FILE IN TICRS	
Jun. 02, 2008	NOTICE OF SUIT	
Nov. 16, 2006	ATTORNEY REVOKED AND/OR APPOINTED	
Nov. 16, 2006	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Oct. 24, 2002	REGISTERED AND RENEWED (FOURTH RENEWAL - 10 YRS)	
Oct. 24, 2002	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Sep. 06, 2002	RESPONSE RECEIVED TO POST REG. ACTION - SEC. 8 & 9	
Sep. 06, 2002	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Sep. 06, 2002	PAPER RECEIVED	
Aug. 27, 2002	POST REGISTRATION ACTION MAILED - SEC. 8 & 9	
May 23, 2002	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	

May 22, 2002	TEAS CHANGE OF CORRESPONDENCE RECEIVED
Jun. 03, 1993	REGISTERED AND RENEWED (THIRD RENEWAL - 10 YRS)
Apr. 23, 1993	REGISTERED - SEC. 9 FILED/CHECK RECORD FOR SEC. 8
Jun. 06, 1973	REGISTERED AND RENEWED (SECOND RENEWAL - 20 YRS)

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Jun. 06, 2013

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Apr. 09, 2013

Assignment Abstract Of Title Information

Summary

Total Assignments: 5

Registrant: CARL WALTHER, WAFFENFABRIK

Assignment 1 of 5

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

Reel/Frame: [0396/0188](#)

Pages: 3

Date Recorded: Jul. 23, 1981

Supporting Documents: No Supporting Documents Available

Assignor

Name: [CARL WALTHER](#)

Execution Date: Jul. 03, 1981

Legal Entity Type: A FIRM

State or Country Where Organized: GERMANY

Assignee

Name: [INTERNATIONAL ARMAMENT CORPORATION](#)

Legal Entity Type: UNKNOWN

State or Country Where Organized: No Place Where Organized Found

Address: 10 PRICE ST.
ALEXANDRIA, VIRGINIA 22313

Correspondent

Correspondent Name: BRISEBOIS AND KRUGER

Correspondent Address: 2361 JEFF. DAVIS HWY.
ARLINGTON, VA 22202

Domestic Representative - Not Found

Assignment 2 of 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [1850/0120](#)

Pages: 8

Date Recorded: Feb. 01, 1999

Supporting Documents: [assignment-tm-1850-0120.pdf](#)

Assignor

Name: [INTERNATIONAL ARMAMENT CORPORATION](#)

Execution Date: Jan. 29, 1999

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Assignee

Name: [UMAREX SPORTWAFFEN GMBH & CO., KG](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country GERMANY
Where Organized:

Address: POSTFACH 2720
D-59717 ARNESBERG, GERMANY

Correspondent

Correspondent Name: RONALD E. ABRAMSON, ESQ.

Correspondent Address: 1735 20TH ST., NW
WASHINGTON, DC 20009

Domestic Representative

Domestic Representative Name: AGENTS TITLE & ESCROW, INC.

Domestic Representative Address: RONALD E. AMBRAMSON, ESQ.
1735 20TH ST., NW
WASHINGTON, DC 20009

Assignment 3 of 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [2085/0076](#)

Pages: 8

Date Recorded: May 25, 2000

Supporting Documents: [assignment-tm-2085-0076.pdf](#)

Assignor

Name: [INTERNATIONAL ARMAMENT CORPORATION](#)

Execution Date: Jan. 29, 1999

Legal Entity Type: CORPORATION

State or Country DELAWARE
Where Organized:

Assignee

Name: [UMAREX SPORTWAFFEN GMBH & CO., KG](#)

Legal Entity Type: LIMITED LIABILITY

State or Country GERMANY
Where Organized:

Address: POSTFACH 2720
D-59717 ARNESBERG, GERMANY

Correspondent

Correspondent Name: RONALD E. ABRAMSON, ESQ.

Correspondent Address: 1735 20TH ST., NW
WASHINGTON, DC 20009

Domestic Representative

Domestic Representative Name: AGENTS TITLE & ESCROW, INC.

Domestic Representative Address: 1735 20TH ST., NW
WASHINGTON, D.C. 20009

Assignment 4 of 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [2372/0950](#)

Pages: 3

Date Recorded: Sep. 19, 2001

Supporting Documents: [assignment-tm-2372-0950.pdf](#)

Assignor

Name: [INTERNATIONAL ARMAMENT CORPORATION](#)

Execution Date: Jan. 29, 1999

Legal Entity Type: CORPORATION

State or Country DELAWARE
Where Organized:

Assignee

Name: [UMAREX SPORTWAFFEN GMBH & CO. KG](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country GERMANY
Where Organized:

Address: POSTFACH 2720
ARNESBERG, GERMANY D-59717

Correspondent

Correspondent Name: HOFFMAN, WASSON & GITLER, P.C.

Correspondent Address: STEWART L. GITLER
2361 JEFFERSON DAVIS HIGHWAY
SUITE 522
ARLINGTON, VA 22202

Domestic Representative - Not Found

Assignment 5 of 5

Conveyance: CHANGE OF NAME

Reel/Frame: [5835/0116](#)

Pages: 3

Date Recorded: Jul. 15, 2016

Supporting Documents: [assignment-tm-5835-0116.pdf](#)

Assignor

Name: [UMAREX SPORTWAFFEN GMBH & CO. KG](#)

Execution Date: Dec. 18, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Assignee

Name: [UMAREX GMBH & CO. KG](#)

Legal Entity Type: KOMMANDITGESELLSCHAFT (KG)

State or Country Where Organized: GERMANY

Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD, WINTHROP & WEINSTINE

Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative

Domestic Representative Name: WINTHROP & WEINSTINE, P.A.

Domestic Representative Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91215976](#)

Filing Date: Apr 18, 2014

Status: Pending

Status Date: Apr 18, 2014

Interlocutory Attorney: CHRISTEN M ENGLISH

Defendant

Name: Catharina Herriger

Correspondent Address: FRANK MICHAEL WEYER
TECHCOASTLAW
2032 WHITLEY AVE
LOS ANGELES CA , 90068-3235
UNITED STATES

Correspondent e-mail: fweyer@techcoastlaw.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number

	Opposition Pending	85965968	
WALTHER	Opposition Pending	85965933	

Plaintiff(s)

Name: Carl Walther GmbH, Umarex Sportwaffen GmbH & Co., KG

Correspondent WESLEY D ANDERSON

Address: WINTHROP & WEINSTINE PA
225 SOUTH SIXTH STREET, 3500 CAPELLA TOWER
MINNEAPOLIS MN , 55402-4629
UNITED STATES

Correspondent e-mail: trademark@winthrop.com , sbaird@winthrop.com , mengel@winthrop.com , jbriley@winthrop.com , wanderson@winthrop.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number

WALTHER	Renewed	71331019	303701
WALTHER	Renewed	73012340	1120867
WALTHER	Renewed	76511116	2912154
WALTHER	Renewed	76511118	2909647
	Renewed	76537085	3038946
WALTHER	Renewed	76174436	2714985

Prosecution History			
Entry Number	History Text	Date	Due Date

1	FILED AND FEE	Apr 18, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 18, 2014	May 28, 2014
3	PENDING, INSTITUTED	Apr 18, 2014	
4	ANSWER	May 08, 2014	
5	P MOT TO AMEND PLEADING/AMENDED PLEADING	Feb 09, 2015	
6	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
7	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
8	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 02, 2015	
9	D OPP/RESP TO MOTION	Mar 04, 2015	
10	P REPLY IN SUPPORT OF MOTION	Mar 13, 2015	
11	P MOT FOR SUMMARY JGT GRANTED IN PART	Jun 22, 2015	
12	P REQ FOR RECON	Jul 06, 2015	
13	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 16, 2015	
14	D OPP/RESP TO MOTION	Jul 16, 2015	
15	P REPLY IN SUPPORT OF MOTION	Aug 05, 2015	
16	PROCEEDINGS RESUMED	Nov 09, 2015	
17	CORRECTION TO BD ORDER	Nov 13, 2015	
18	P NOTICE OF RELIANCE	Jan 11, 2016	
19	P NOTICE OF RELIANCE	Jan 11, 2016	
20	P TESTIMONY	Feb 05, 2016	
21	D NOTICE OF RELIANCE	Feb 16, 2016	
22	D NOTICE OF RELIANCE	Feb 23, 2016	
23	P NOTICE OF RELIANCE	Apr 25, 2016	
24	P FINAL BRIEF: TM RULE 2.128	Jun 22, 2016	
25	D FINAL BRIEF: TM RULE 2.128	Jul 05, 2016	
26	P REPLY BRIEF OR REBUTTAL BRIEF ON COUNTERCLAIM: TM RULE 2.128	Aug 08, 2016	
27	P REQ FOR ORAL HEARING	Aug 16, 2016	
28	BD ORDER	Aug 17, 2016	

Int. Cl.: 13

Prior U.S. Cl.: 9

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 303,701

Registered June 6, 1933

Renewal Term Begins June 6, 1993

TRADEMARK
PRINCIPAL REGISTER



INTERNATIONAL ARMAMENT COR-
PORATION (DELAWARE CORPORA-
TION)

10 PRINCE STREET

ALEXANDRIA, VA 22314, BY CHANGE
OF NAME AND ASSIGNMENT FROM
CARL WALTHER, WAFFENFABRIK
(FED REP GERMANY FIRM), ZELLA-
MEHLIS, FED REP GERMANY

OWNER OF U.S. REG. NO. 333,352.

FOR: HOWITZERS, FIELD PIECES,
CANNONS, ARTILLERY GUNS, MOR-
TARS, ANTI-AIRCRAFT GUNS,
TOPEDO TUBES, MILITARY RIFLES,
CARBINES, HUNTING RIFLES, SHOT
GUNS, PISTOLS, REVOLVERS, MA-

CHINE GUNS, GUNS FOR SHOOTING
SIGNALS ROCKETS AND FLARES,
GUNS FOR SHOOTING LIQUID FIRE,
GUNS FOR SHOOTING GAS GRE-
NADES AND BOMBS, GUNS FOR
SHOOTING HARPOONS, LIFE SAVING
GUNS, ADULT AIR GUNS ADULT PIS-
TOLS, AND ADULT CAPPISTOLS,
ADULT CAP GUNS; TORPEDOS, DYNA-
MITE, AIR BOMBS, BOMBS, SHELLS,
ROCKETS, HAND GRENADES, MINES
AND DEPTH BOMBS, IN CLASS 9 (INT.
CL. 13).

FIRST USE 0-0-1910; IN COMMERCE
0-0-1910.

SER. NO. 71-331,019, FILED 10-6-1932.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on July 13, 1993.*

COMMISSIONER OF PATENTS AND TRADEMARKS

Registered June 6, 1933

Trade-Mark 303,701

Property of the U. S. Patent Office.
Not to be taken from the File.

UNITED STATES PATENT OFFICE

CARL WALTHER, WAFFENFABRIK, OF ZELLA-MEHLIS, GERMANY

ACT OF FEBRUARY 20, 1905

Application filed October 6, 1932. Serial No. 331,019.



STATEMENT

To the Commissioner of Patents:

Carl Walther, Waffenfabrik, a firm domiciled in Zella-Mehlis, Germany, doing business at Zella-Mehlis, Germany, and composed of the following members Fritz Walther, Georg Walther, Erich Walther, all citizens of Germany, has adopted and used the trade-mark shown in the accompanying drawing, for HOWITZERS, FIELD PIECES, CANNONS, ARTILLERY GUNS, MORTARS, ANTI-AIRCRAFT GUNS, TORPEDO TUBES, MILITARY RIFLES, CARBINES, HUNTING RIFLES, SHOT GUNS, PISTOLS, REVOLVERS, MACHINE GUNS, GUNS FOR SHOOTING SIGNAL ROCKETS AND FLARES, GUNS FOR SHOOTING LIQUID FIRE, GUNS FOR SHOOTING GAS GRENADES AND BOMBS, GUNS FOR SHOOTING HARPOONS, LIFE SAVING GUNS, ADULT AIR GUNS, ADULT PISTOLS, ADULT CAP PISTOLS, AND ADULT CAP GUNS; TORPEDOS, DYNAMITE, AIR BOMBS, BOMBS, SHELLS, ROCKETS, HAND GRENADES, MINES, AND DEPTH BOMBS,

in Class 9, Explosives, firearms, equipments, and projectiles, and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used by applicant upon the goods, and requests that the same be registered in the United States Patent Office in accordance with the act of February 20, 1905. The trade-mark has been continuously used and applied to said goods in applicant's business since 1910. The trade-mark is applied or affixed to the goods or to the packages containing the same by stamping or etching to the goods and by printing to the packages. Said trade-mark was registered in Germany May 8, 1925, No. 333,352.

Conway P. Coe, whose post office address is 803 National Press Building, Washington, D. C., is designated as applicant's representative on whom process of notice of proceedings affecting the right to ownership of said trade-mark brought under the laws of the United States may be served.

CARL WALTHER, WAFFENFABRIK,
By FRITZ WALTHER,
A Member of the Firm.

PUBLISHED UNDER
SEC. 12(C) IN O. G.

FEB 2 1960

U. S. PATENT OFFICE

COMB. AFF. SEC. 8 & 15

OCT 12 1965

Generated on: This page was generated by TSDR on 2016-08-31 15:06:40 EDT

Mark: WALTHER

WALTHER

US Serial Number: 73012340

Application Filing Date: Feb. 01, 1974

US Registration Number: 1120867

Registration Date: Jun. 26, 1979

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Apr. 24, 2009

Mark Information

Mark Literal Elements: WALTHER

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Acquired Distinctiveness Claim: In whole

Related Properties Information

Claimed Ownership of US Registrations: 0303701

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: MACHINE TOOLS-NAMELY, AUTOMATIC SLOT MILLING MACHINES

International Class(es): 007 - Primary Class

U.S Class(es): 023

Class Status: SECTION 8 - CANCELLED

Basis: 1(a)

First Use: 1952

Use in Commerce: 1952

For: HUNTING AND SPORT RIFLES, PISTOLS, REVOLVERS AND SHOT GUNS

International Class(es): 013 - Primary Class

U.S Class(es): 009

Class Status: ACTIVE

Basis: 1(a)

First Use: 1952

Use in Commerce: 1952

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: UMAREX GMBH & CO., KG

Owner Address: DONNERFELD 2
ARNSBERG 59757
GERMANY

Legal Entity Type: GMBH & CO. KG

State or Country GERMANY
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Stephen R. Baird

Docket Number: 13132.24

Attorney Primary sbaird@winthrop.com
Email Address:Attorney Email Yes
Authorized:

Correspondent

Correspondent Stephen R. Baird
Name/Address: Winthrop & Weinstine, P.A.
Suite 3500
225 South Sixth Street
Minneapolis, MINNESOTA 55402
UNITED STATES

Phone: (612) 604-6585

Fax: (612) 604-6985

Correspondent e- sbaird@winthrop.com
mail:Correspondent e- Yes
mail Authorized:

Domestic Representative

Domestic Stephen R. Baird
Representative Name:

Phone: (612) 604-6985

Fax: (612) 604-6985

Domestic sbaird@winthrop.com
Representative e-
mail:Domestic Yes
Representative e-
mail Authorized:

Prosecution History

Date	Description	Proceeding Number
Aug. 10, 2016	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
May 04, 2016	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jun. 10, 2015	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Apr. 24, 2009	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	59807
Apr. 24, 2009	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Apr. 24, 2009	ASSIGNED TO PARALEGAL	59807
Apr. 22, 2009	TEAS SECTION 8 & 9 RECEIVED	
Jun. 02, 2008	NOTICE OF SUIT	
Oct. 11, 2007	CASE FILE IN TICRS	
Nov. 16, 2006	ATTORNEY REVOKED AND/OR APPOINTED	
Nov. 16, 2006	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 08, 2003	CERTIFICATE OF CORRECTION ISSUED	
Nov. 06, 2002	PAPER RECEIVED	
Sep. 06, 2002	CERTIFICATE OF CORRECTION ISSUED	
Jul. 09, 2002	SEC 7 REQUEST FILED	
Jul. 09, 2002	PAPER RECEIVED	
Jul. 05, 2002	TEAS CHANGE OF CORRESPONDENCE RECEIVED	

Aug. 12, 1999	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)
Jun. 22, 1999	REGISTERED - SEC. 9 FILED/CHECK RECORD FOR SEC. 8
Aug. 29, 1985	REGISTERED - PARTIAL SEC. 8 (6-YR) ACCEPTED
Aug. 27, 1985	POST REGISTRATION ACTION CORRECTION
May 20, 1985	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Renewal Date: Jun. 26, 2009

Change in Registration: Yes

Correction made to Registration: In the statement, Column 1, line 1, "AG" should be deleted, and, "KG" should be inserted. In the statement, Column 1, line 5, "ARNESBERG" should be deleted, and, "ARNSBERG" should be inserted.

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Apr. 24, 2009

Assignment Abstract Of Title Information

Summary

Total Assignments: 7

Registrant: CARL WALTHER

Assignment 1 of 7

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

Reel/Frame: [0415/0222](#)

Pages: 0

Date Recorded: May 06, 1982

Supporting Documents: No Supporting Documents Available

Assignor

Name: [CARL WALTHER](#)

Execution Date: Apr. 06, 1982

Legal Entity Type: A FIRM

State or Country Where Organized: GERMANY

Assignee

Name: [INTERNATIONAL ARMAMENT CORPORATION](#)

Legal Entity Type: UNKNOWN

State or Country Where Organized: No Place Where Organized Found

Address: 10 PRINCE ST.
ALEXANDRIA, VIRGINIA 22313

Correspondent

Correspondent Name: BRISEBOIS & KRUGER

Correspondent Address: 2361 JEFFERSON DAVIS HWY.
ARLINGTON, VA. 22202

Domestic Representative - Not Found

Assignment 2 of 7

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

Reel/Frame: [0416/0346](#)

Pages: 0

Date Recorded: May 25, 1982

Supporting Documents: No Supporting Documents Available

Assignor

Name: [CARL WALTHER](#)

Execution Date: Apr. 06, 1982

Legal Entity Type: A FIRM

State or Country: GERMANY

Where Organized:

Assignee

Name: [INTERNATIONAL ARMAMENT CORPORATION](#)

Legal Entity Type: UNKNOWN

State or Country: No Place Where Organized Found
Where Organized:

Address: 10 PRINCE ST.
ALEXANDRIA, VIRGINIA 22313

Correspondent

Correspondent Name: BRISEBOIS AND KRUGER

Correspondent Address: 2361 JEFF. DAVIS HWY
ARLINGTON, VA. 22202

Domestic Representative - Not Found

Assignment 3 of 7

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [1850/0120](#)

Pages: 8

Date Recorded: Feb. 01, 1999

Supporting Documents: [assignment-tm-1850-0120.pdf](#)

Assignor

Name: [INTERNATIONAL ARMAMENT CORPORATION](#)

Execution Date: Jan. 29, 1999

Legal Entity Type: CORPORATION

State or Country: DELAWARE
Where Organized:

Assignee

Name: [UMAREX SPORTWAFFEN GMBH & CO., KG](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country: GERMANY
Where Organized:

Address: POSTFACH 2720
D-59717 ARNESBERG, GERMANY

Correspondent

Correspondent Name: RONALD E. ABRAMSON, ESQ.

Correspondent Address: 1735 20TH ST., NW
WASHINGTON, DC 20009

Domestic Representative

Domestic Representative Name: AGENTS TITLE & ESCROW, INC.

Domestic Representative Address: RONALD E. AMBRAMSON, ESQ.
1735 20TH ST., NW
WASHINGTON, DC 20009

Assignment 4 of 7

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [2085/0076](#)

Pages: 8

Date Recorded: May 25, 2000

Supporting Documents: [assignment-tm-2085-0076.pdf](#)

Assignor

Name: [INTERNATIONAL ARMAMENT CORPORATION](#)

Execution Date: Jan. 29, 1999

Legal Entity Type: CORPORATION

State or Country: DELAWARE
Where Organized:

Assignee

Name: [UMAREX SPORTWAFFEN GMBH & CO., KG](#)

Legal Entity Type: LIMITED LIABILITY

State or Country: GERMANY
Where Organized:

Address: POSTFACH 2720
D-59717 ARNESBERG, GERMANY

Correspondent

Correspondent Name: RONALD E. ABRAMSON, ESQ.

Correspondent Address: 1735 20TH ST., NW
WASHINGTON, DC 20009

Domestic Representative

Domestic Representative Name: AGENTS TITLE & ESCROW, INC.

Domestic Representative Address: 1735 20TH ST., NW
WASHINGTON, D.C. 20009

Assignment 5 of 7

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5543/0608](#)

Pages: 4

Date Recorded: Jun. 03, 2015

Supporting Documents: [assignment-tm-5543-0608.pdf](#)

Assignor

Name: [UMAREX SPORTWAFFEN GMBH & CO., KG](#)

Execution Date: Jun. 03, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Assignee

Name: [CARL WALTHER GMBH](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Address: IM LEHRER FELD 1
ULM, GERMANY 89081

Correspondent

Correspondent Name: WESLEY D. ANDERSON, WINTHROP & WEINSTINE

Correspondent Address: 225 SOUTH SIXTH STREET
SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative

Domestic Representative Name: STEVEN R. BAIRD

Domestic Representative Address: 225 SOUTH SIXTH STREET
SUITE 3500
MINNEAPOLIS, MN 55402

Assignment 6 of 7

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5777/0928](#)

Pages: 4

Date Recorded: Apr. 26, 2016

Supporting Documents: [assignment-tm-5777-0928.pdf](#)

Assignor

Name: [CARL WALTHER GMBH](#)

Execution Date: Mar. 16, 2016

Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER
HAFTUNG (GMBH)

State or Country Where Organized: GERMANY

Assignee

Name: [UMAREX GMBH & CO., KG](#)

Legal Entity Type: GMBH & CO. KG

State or Country Where Organized: GERMANY

Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD
Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative - Not Found

Assignment 7 of 7

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE RECEIVING PARTY NAME PREVIOUSLY RECORDED AT REEL: 005777
FRAME: 0928. ASSIGNOR(S) HEREBY CONFIRMS THE ASSIGNMENT.
Reel/Frame: [5838/0878](#) **Pages:** 6
Date Recorded: Jul. 20, 2016
Supporting Documents: [assignment-tm-5838-0878.pdf](#)

Assignor

Name: [CARL WALTHER GMBH](#) **Execution Date:** Mar. 16, 2016
Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER
HAFTUNG (GMBH) **State or Country Where Organized:** GERMANY

Assignee

Name: [UMAREX GMBH & CO. KG](#)
Legal Entity Type: KOMMANDITGESELLSCHAFT (KG) **State or Country Where Organized:** GERMANY
Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD
Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91215976](#) **Filing Date:** Apr 18, 2014
Status: Pending **Status Date:** Apr 18, 2014
Interlocutory Attorney: CHRISTEN M ENGLISH

Defendant

Name: Catharina Herriger
Correspondent Address: FRANK MICHAEL WEYER
TECHCOASTLAW
2032 WHITLEY AVE
LOS ANGELES CA , 90068-3235
UNITED STATES
Correspondent e-mail: fweyer@techcoastlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
WALTHER	Opposition Pending	85965968	
	Opposition Pending	85965933	

Plaintiff(s)

Name: Carl Walther GmbH, Umarex Sportwaffen GmbH & Co., KG
Correspondent WESLEY D ANDERSON

Address: WINTHROP & WEINSTINE PA
225 SOUTH SIXTH STREET, 3500 CAPELLA TOWER
MINNEAPOLIS MN , 55402-4629
UNITED STATES

Correspondent e-mail: trademark@winthrop.com , sbaird@winthrop.com , mengel@winthrop.com , jbriley@winthrop.com , wanderson@winthrop.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number
WALTHER	Renewed	71331019	303701
WALTHER	Renewed	73012340	1120867
WALTHER	Renewed	76511116	2912154
WALTHER	Renewed	76511118	2909647
	Renewed	76537085	3038946
WALTHER	Renewed	76174436	2714985

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Apr 18, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 18, 2014	May 28, 2014
3	PENDING, INSTITUTED	Apr 18, 2014	
4	ANSWER	May 08, 2014	
5	P MOT TO AMEND PLEADING/AMENDED PLEADING	Feb 09, 2015	
6	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
7	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
8	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 02, 2015	
9	D OPP/RESP TO MOTION	Mar 04, 2015	
10	P REPLY IN SUPPORT OF MOTION	Mar 13, 2015	
11	P MOT FOR SUMMARY JGT GRANTED IN PART	Jun 22, 2015	
12	P REQ FOR RECON	Jul 06, 2015	
13	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 16, 2015	
14	D OPP/RESP TO MOTION	Jul 16, 2015	
15	P REPLY IN SUPPORT OF MOTION	Aug 05, 2015	
16	PROCEEDINGS RESUMED	Nov 09, 2015	
17	CORRECTION TO BD ORDER	Nov 13, 2015	
18	P NOTICE OF RELIANCE	Jan 11, 2016	
19	P NOTICE OF RELIANCE	Jan 11, 2016	
20	P TESTIMONY	Feb 05, 2016	
21	D NOTICE OF RELIANCE	Feb 16, 2016	
22	D NOTICE OF RELIANCE	Feb 23, 2016	
23	P NOTICE OF RELIANCE	Apr 25, 2016	
24	P FINAL BRIEF: TM RULE 2.128	Jun 22, 2016	
25	D FINAL BRIEF: TM RULE 2.128	Jul 05, 2016	
26	P REPLY BRIEF OR REBUTTAL BRIEF ON COUNTERCLAIM: TM RULE 2.128	Aug 08, 2016	
27	P REQ FOR ORAL HEARING	Aug 16, 2016	
28	BD ORDER	Aug 17, 2016	

Int. Cl.: 13

Prior U.S. Cl.: 9

Reg. No. 1,120,867

United States Patent and Trademark Office

Registered June 26, 1979

Corrected

OG Date Feb. 18, 2003

**TRADEMARK
PRINCIPAL REGISTER**

WALTHER

UMAREX SPORTWAFFEN GMBH & CO.,
KG (FED REP GERMANY LIMITED
LIABILITY COMPANY),
POSTFACH 2720
D-59717, ARNSBERG, FED REP GER-
MANY, ASSIGNEE OF CARL
WALTHER (FED REP GERMANY
FIRM), 7900 ULM/DONAU, FED REP
GERMANY

OWNER OF U.S. REG. NO. 303,701.
SEC. 2(F).

FOR: MACHINE TOOLS—NAMELY,
AUTOMATIC SLOT MILLING MA-
CHINES, IN CLASS 7 (U.S. CL. 23).
FIRST USE 0-0-1952; IN COMMERCE
0-0-1952.

FOR: HUNTING AND SPORT RIFLES,
PISTOLS, REVOLVERS AND SHOT
GUNS, IN CLASS 13 (U.S. CL. 9).
FIRST USE 0-0-1952; IN COMMERCE
0-0-1952.
SER. NO. 73-012,340, FILED 2-1-1974.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Feb. 18, 2003.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Generated on: This page was generated by TSDR on 2016-08-31 15:07:00 EDT

Mark: WALTHER



US Serial Number: 76511116

Application Filing Date: May 02, 2003

US Registration Number: 2912154

Registration Date: Dec. 21, 2004

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Mar. 14, 2014

Publication Date: Sep. 28, 2004

Mark Information

Mark Literal Elements: WALTHER

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Color(s) Claimed: Color is not claimed as a feature of the mark.

Design Search Code(s): 24.09.07 - Banners; Advertising, banners

Related Properties Information

Claimed Ownership of US Registrations: 0303701, 1120867, 2714985

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Toy weapons; toy replicas of weapons; [toy model kits of weapons; toy decorative weapons]

International Class(es): 028 - Primary Class

U.S Class(es): 022, 023, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 1996

Use in Commerce: May 2003

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: UMAREX GMBH & CO., KG	
Owner Address: DONNERFELD 2 ARNSBERG 59757 GERMANY	
Legal Entity Type: GMBH & CO. KG	State or Country GERMANY Where Organized:

Attorney/Correspondence Information

Attorney of Record	
Attorney Name: Stephen R. Baird	Docket Number: 13132.28
Attorney Primary Email Address: trademark@winthrop.com	Attorney Email Authorized: Yes
Correspondent	
Correspondent Name/Address: Stephen R. Baird WINTHROP & WEINSTINE, P.A. 225 South Sixth Street Capella Tower, Suite 3500 MINNEAPOLIS, MINNESOTA 55402 UNITED STATES	
Phone: (612) 604-6585	Fax: (612) 604-6985
Correspondent e-mail: trademark@winthrop.com	Correspondent e-mail Authorized: Yes
Domestic Representative	
Domestic Representative Name: Stephen R. Baird	Phone: (612) 604-6585
Fax: (612) 604-6985	
Domestic Representative e-mail: sbaird@winthrop.com	Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Aug. 10, 2016	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
May 04, 2016	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jun. 10, 2015	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 14, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Mar. 14, 2014	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	68502
Mar. 14, 2014	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	68502
Feb. 21, 2014	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	68502
Mar. 12, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	68502
Feb. 21, 2014	TEAS SECTION 8 & 9 RECEIVED	
Dec. 28, 2010	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	77315
Dec. 27, 2010	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	77315
Dec. 07, 2010	TEAS SECTION 8 & 15 RECEIVED	
Jun. 02, 2008	NOTICE OF SUIT	
Nov. 16, 2006	ATTORNEY REVOKED AND/OR APPOINTED	
Nov. 16, 2006	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Dec. 21, 2004	REGISTERED-PRINCIPAL REGISTER	
Sep. 28, 2004	PUBLISHED FOR OPPOSITION	
Sep. 08, 2004	NOTICE OF PUBLICATION	
Jul. 30, 2004	LAW OFFICE PUBLICATION REVIEW COMPLETED	68658
Jul. 30, 2004	ASSIGNED TO LIE	68658
Jul. 19, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 06, 2004	AMENDMENT FROM APPLICANT ENTERED	71441

Jul. 06, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	71441
Jul. 06, 2004	PAPER RECEIVED	
May 06, 2004	ACTION DENYING REQ FOR RECON MAILED	
Apr. 05, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Apr. 05, 2004	PAPER RECEIVED	
Jan. 28, 2004	FINAL REFUSAL MAILED	
Dec. 31, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Dec. 31, 2003	PAPER RECEIVED	
Oct. 20, 2003	NON-FINAL ACTION MAILED	
Oct. 17, 2003	USE AMENDMENT ACCEPTED	
Oct. 17, 2003	ASSIGNED TO EXAMINER	77304
Jul. 16, 2003	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	
Aug. 19, 2003	AMENDMENT TO USE PROCESSING COMPLETE	
Jul. 16, 2003	USE AMENDMENT FILED	
Jul. 16, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Aug. 06, 2003	CASE FILE IN TICRS	
Jul. 16, 2003	PAPER RECEIVED	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Dec. 21, 2014

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Mar. 14, 2014

Assignment Abstract Of Title Information

Summary

Total Assignments: 3

Registrant: UMAREX Sportwaffen GmbH & Co. KG

Assignment 1 of 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5543/0608](#)

Pages: 4

Date Recorded: Jun. 03, 2015

Supporting Documents: [assignment-tm-5543-0608.pdf](#)

Assignor

Name: [UMAREX SPORTWAFFEN GMBH & CO., KG](#)

Execution Date: Jun. 03, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Assignee

Name: [CARL WALTHER GMBH](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Address: IM LEHRER FELD 1
ULM, GERMANY 89081

Correspondent

Correspondent Name: WESLEY D. ANDERSON, WINTHROP & WEINSTINE

Correspondent Address: 225 SOUTH SIXTH STREET
SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative

Domestic Representative Name: STEVEN R. BAIRD

Domestic Representative Address: 225 SOUTH SIXTH STREET
SUITE 3500
MINNEAPOLIS, MN 55402

Assignment 2 of 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5777/0928](#)

Pages: 4

Date Recorded: Apr. 26, 2016

Supporting Documents: [assignment-tm-5777-0928.pdf](#)

Assignor

Name: [CARL WALTHER GMBH](#)

Execution Date: Mar. 16, 2016

Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER
HAFTUNG (GMBH)

State or Country Where Organized: GERMANY

Assignee

Name: [UMAREX GMBH & CO., KG](#)

Legal Entity Type: GMBH & CO. KG

State or Country Where Organized: GERMANY

Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD

Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative - Not Found

Assignment 3 of 3

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE RECEIVING PARTY NAME PREVIOUSLY RECORDED AT REEL: 005777
FRAME: 0928. ASSIGNOR(S) HEREBY CONFIRMS THE ASSIGNMENT.

Reel/Frame: [5838/0878](#)

Pages: 6

Date Recorded: Jul. 20, 2016

Supporting Documents: [assignment-tm-5838-0878.pdf](#)

Assignor

Name: [CARL WALTHER GMBH](#)

Execution Date: Mar. 16, 2016

Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER
HAFTUNG (GMBH)

State or Country Where Organized: GERMANY

Assignee

Name: [UMAREX GMBH & CO. KG](#)

Legal Entity Type: KOMMANDITGESELLSCHAFT (KG)

State or Country Where Organized: GERMANY

Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD

Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative - Not Found

Proceedings

Summary

Number of 1
Proceedings:

Type of Proceeding: Opposition

Proceeding Number: [91215976](#)

Filing Date: Apr 18, 2014

Status: Pending

Status Date: Apr 18, 2014

Interlocutory Attorney: CHRISTEN M ENGLISH

Defendant

Name: Catharina Herriger

Correspondent Address: FRANK MICHAEL WEYER
TECHCOASTLAW
2032 WHITLEY AVE
LOS ANGELES CA , 90068-3235
UNITED STATES

Correspondent e-mail: fweyer@techcoastlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	85965968	
WALTHER	Opposition Pending	85965933	

Plaintiff(s)

Name: Carl Walther GmbH, Umarex Sportwaffen GmbH & Co., KG

Correspondent Address: WESLEY D ANDERSON
WINTHROP & WEINSTINE PA
225 SOUTH SIXTH STREET, 3500 CAPELLA TOWER
MINNEAPOLIS MN , 55402-4629
UNITED STATES

Correspondent e-mail: trademark@winthrop.com , sbaird@winthrop.com , mengel@winthrop.com , jbriley@winthrop.com , wanderson@winthrop.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
WALTHER	Renewed	71331019	303701
WALTHER	Renewed	73012340	1120867
WALTHER	Renewed	76511116	2912154
WALTHER	Renewed	76511118	2909647
	Renewed	76537085	3038946
WALTHER	Renewed	76174436	2714985

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Apr 18, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 18, 2014	May 28, 2014
3	PENDING, INSTITUTED	Apr 18, 2014	
4	ANSWER	May 08, 2014	
5	P MOT TO AMEND PLEADING/AMENDED PLEADING	Feb 09, 2015	
6	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
7	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
8	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 02, 2015	
9	D OPP/RESP TO MOTION	Mar 04, 2015	
10	P REPLY IN SUPPORT OF MOTION	Mar 13, 2015	
11	P MOT FOR SUMMARY JGT GRANTED IN PART	Jun 22, 2015	
12	P REQ FOR RECON	Jul 06, 2015	
13	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 16, 2015	
14	D OPP/RESP TO MOTION	Jul 16, 2015	
15	P REPLY IN SUPPORT OF MOTION	Aug 05, 2015	
16	PROCEEDINGS RESUMED	Nov 09, 2015	

17	CORRECTION TO BD ORDER	Nov 13, 2015
18	P NOTICE OF RELIANCE	Jan 11, 2016
19	P NOTICE OF RELIANCE	Jan 11, 2016
20	P TESTIMONY	Feb 05, 2016
21	D NOTICE OF RELIANCE	Feb 16, 2016
22	D NOTICE OF RELIANCE	Feb 23, 2016
23	P NOTICE OF RELIANCE	Apr 25, 2016
24	P FINAL BRIEF: TM RULE 2.128	Jun 22, 2016
25	D FINAL BRIEF: TM RULE 2.128	Jul 05, 2016
26	P REPLY BRIEF OR REBUTTAL BRIEF ON COUNTERCLAIM: TM RULE 2.128	Aug 08, 2016
27	P REQ FOR ORAL HEARING	Aug 16, 2016
28	BD ORDER	Aug 17, 2016

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

Reg. No. 2,912,154

United States Patent and Trademark Office

Registered Dec. 21, 2004

**TRADEMARK
PRINCIPAL REGISTER**



UMAREX SPORTWAFFEN GMBH & CO. KG
(FED REP GERMANY LTD LIAB CO)
DONNERFELD 2
59717 ARNSBERG, FED REP GERMANY

FIRST USE 1-0-1996; IN COMMERCE 5-0-2003.

OWNER OF U.S. REG. NOS. 303,701, 1,120,867,
AND 2,714,985.

FOR: TOY WEAPONS; TOY REPLICAS OF WEAP-
ONS; TOY MODEL KITS OF WEAPONS; TOY DEC-
ORATIVE WEAPONS, IN CLASS 28 (U.S. CLS. 22, 23,
38 AND 50).

SER. NO. 76-511,116, FILED 5-2-2003.

WILLIAM VERHOSEK, EXAMINING ATTORNEY

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Mark: WALTHER

WALTHER

US Serial Number: 76511118

Application Filing Date: May 02, 2003

US Registration Number: 2909647

Registration Date: Dec. 14, 2004

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Mar. 12, 2014

Publication Date: Sep. 21, 2004

Mark Information

Mark Literal Elements: WALTHER

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Acquired Distinctiveness Claim: In whole

Related Properties Information

Claimed Ownership of US Registrations: 0303701, 1120867, 2714985

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Toy weapons; toy replicas of weapons; [toy model kits of weapons; toy decorative weapons]

International Class(es): 028 - Primary Class

U.S Class(es): 022, 023, 038, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 1996

Use in Commerce: May 2003

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: UMAREX GMBH & CO., KG

Owner Address: DONNERFELD 2
ARNSBERG 59757
GERMANY

Legal Entity Type: GMBH & CO. KG

State or Country GERMANY
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Stephen R. Baird

Docket Number: 13132.25

Attorney Primary trademark@winthrop.com
Email Address:

Attorney Email Yes
Authorized:

Correspondent

Correspondent Stephen R. Baird
Name/Address: WINTHROP & WEINSTINE, P.A.
225 South Sixth Street
Capella Tower, Suite 3500
MINNEAPOLIS, MINNESOTA 55402
UNITED STATES

Phone: (612) 604-6585

Fax: (612) 604-6985

Correspondent e-mail: trademark@winthrop.com

Correspondent e-mail Yes
Authorized:

Domestic Representative

Domestic Stephen R. Baird
Representative
Name:

Phone: (612) 604-6585

Fax: (612) 604-6985

Domestic sbaird@winthrop.com
Representative e-mail:

Domestic Yes
Representative e-mail Authorized:

Prosecution History

Date	Description	Proceeding Number
Aug. 10, 2016	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
May 04, 2016	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jun. 10, 2015	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 12, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Mar. 12, 2014	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	76874
Mar. 12, 2014	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	76874
Feb. 21, 2014	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	76874
Mar. 12, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76874
Feb. 21, 2014	TEAS SECTION 8 & 9 RECEIVED	
Dec. 28, 2010	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	77315
Dec. 27, 2010	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	77315
Dec. 07, 2010	TEAS SECTION 8 & 15 RECEIVED	
Jun. 02, 2008	NOTICE OF SUIT	
Nov. 16, 2006	ATTORNEY REVOKED AND/OR APPOINTED	
Nov. 16, 2006	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Dec. 14, 2004	REGISTERED-PRINCIPAL REGISTER	
Sep. 21, 2004	PUBLISHED FOR OPPOSITION	
Sep. 01, 2004	NOTICE OF PUBLICATION	
Jul. 12, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 24, 2004	AMENDMENT FROM APPLICANT ENTERED	76537
Jun. 24, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	76537

Jun. 24, 2004	PAPER RECEIVED
May 06, 2004	FINAL REFUSAL MAILED
Apr. 02, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE
Apr. 02, 2004	PAPER RECEIVED
Jan. 28, 2004	NON-FINAL ACTION MAILED
Dec. 31, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE
Dec. 31, 2003	PAPER RECEIVED
Oct. 20, 2003	NON-FINAL ACTION MAILED
Oct. 17, 2003	USE AMENDMENT ACCEPTED
Oct. 17, 2003	ASSIGNED TO EXAMINER
Jul. 16, 2003	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED
Aug. 19, 2003	AMENDMENT TO USE PROCESSING COMPLETE
Jul. 16, 2003	USE AMENDMENT FILED
Jul. 16, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE
Aug. 06, 2003	CASE FILE IN TICRS
Jul. 16, 2003	PAPER RECEIVED

77304

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Dec. 14, 2014

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Mar. 12, 2014

Assignment Abstract Of Title Information

Summary

Total Assignments: 3

Registrant: UMAREX Sportwaffen GmbH & Co. KG

Assignment 1 of 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5543/0608](#)

Pages: 4

Date Recorded: Jun. 03, 2015

Supporting Documents: [assignment-tm-5543-0608.pdf](#)

Assignor

Name: [UMAREX SPORTWAFFEN GMBH & CO., KG](#)

Execution Date: Jun. 03, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Assignee

Name: [CARL WALTHER GMBH](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Address: IM LEHRER FELD 1
ULM, GERMANY 89081

Correspondent

Correspondent Name: WESLEY D. ANDERSON, WINTHROP & WEINSTINE

Correspondent Address: 225 SOUTH SIXTH STREET
SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative

Domestic Representative Name: STEVEN R. BAIRD

Domestic Representative Address: 225 SOUTH SIXTH STREET
SUITE 3500
MINNEAPOLIS, MN 55402

Assignment 2 of 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5777/0928](#)

Pages: 4

Date Recorded: Apr. 26, 2016

Supporting Documents: [assignment-tm-5777-0928.pdf](#)

Assignor

Name: [CARL WALTHER GMBH](#)

Execution Date: Mar. 16, 2016

Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER
HAFTUNG (GMBH)

State or Country Where Organized: GERMANY

Assignee

Name: [UMAREX GMBH & CO., KG](#)

Legal Entity Type: GMBH & CO. KG

State or Country Where Organized: GERMANY

Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD

Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative - Not Found

Assignment 3 of 3

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE RECEIVING PARTY NAME PREVIOUSLY RECORDED AT REEL: 005777
FRAME: 0928. ASSIGNOR(S) HEREBY CONFIRMS THE ASSIGNMENT.

Reel/Frame: [5838/0878](#)

Pages: 6

Date Recorded: Jul. 20, 2016

Supporting Documents: [assignment-tm-5838-0878.pdf](#)

Assignor

Name: [CARL WALTHER GMBH](#)

Execution Date: Mar. 16, 2016

Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER
HAFTUNG (GMBH)

State or Country Where Organized: GERMANY

Assignee

Name: [UMAREX GMBH & CO. KG](#)

Legal Entity Type: KOMMANDITGESELLSCHAFT (KG)

State or Country Where Organized: GERMANY

Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD

Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative - Not Found

Proceedings

Summary

Number of 1

Proceedings:

Type of Proceeding: Opposition

Proceeding Number: [91215976](#)

Filing Date: Apr 18, 2014

Status: Pending

Status Date: Apr 18, 2014

Interlocutory Attorney: CHRISTEN M ENGLISH

Defendant

Name: Catharina Herriger

Correspondent Address: FRANK MICHAEL WEYER
TECHCOASTLAW
2032 WHITLEY AVE
LOS ANGELES CA , 90068-3235
UNITED STATES

Correspondent e-mail: fweyer@techcoastlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	85965968	
WALTHER	Opposition Pending	85965933	

Plaintiff(s)

Name: Carl Walther GmbH, Umarex Sportwaffen GmbH & Co., KG

Correspondent Address: WESLEY D ANDERSON
WINTHROP & WEINSTINE PA
225 SOUTH SIXTH STREET , 3500 CAPELLA TOWER
MINNEAPOLIS MN , 55402-4629
UNITED STATES

Correspondent e-mail: trademark@winthrop.com , sbaird@winthrop.com , mengel@winthrop.com , jbriley@winthrop.com , wanderson@winthrop.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
WALTHER	Renewed	71331019	303701
WALTHER	Renewed	73012340	1120867
WALTHER	Renewed	76511116	2912154
WALTHER	Renewed	76511118	2909647
	Renewed	76537085	3038946
WALTHER	Renewed	76174436	2714985

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Apr 18, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 18, 2014	May 28, 2014
3	PENDING, INSTITUTED	Apr 18, 2014	
4	ANSWER	May 08, 2014	
5	P MOT TO AMEND PLEADING/AMENDED PLEADING	Feb 09, 2015	
6	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
7	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
8	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 02, 2015	
9	D OPP/RESP TO MOTION	Mar 04, 2015	
10	P REPLY IN SUPPORT OF MOTION	Mar 13, 2015	
11	P MOT FOR SUMMARY JGT GRANTED IN PART	Jun 22, 2015	
12	P REQ FOR RECON	Jul 06, 2015	
13	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 16, 2015	
14	D OPP/RESP TO MOTION	Jul 16, 2015	
15	P REPLY IN SUPPORT OF MOTION	Aug 05, 2015	
16	PROCEEDINGS RESUMED	Nov 09, 2015	

17	CORRECTION TO BD ORDER	Nov 13, 2015
18	P NOTICE OF RELIANCE	Jan 11, 2016
19	P NOTICE OF RELIANCE	Jan 11, 2016
20	P TESTIMONY	Feb 05, 2016
21	D NOTICE OF RELIANCE	Feb 16, 2016
22	D NOTICE OF RELIANCE	Feb 23, 2016
23	P NOTICE OF RELIANCE	Apr 25, 2016
24	P FINAL BRIEF: TM RULE 2.128	Jun 22, 2016
25	D FINAL BRIEF: TM RULE 2.128	Jul 05, 2016
26	P REPLY BRIEF OR REBUTTAL BRIEF ON COUNTERCLAIM: TM RULE 2.128	Aug 08, 2016
27	P REQ FOR ORAL HEARING	Aug 16, 2016
28	BD ORDER	Aug 17, 2016

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

United States Patent and Trademark Office

Reg. No. 2,909,647

Registered Dec. 14, 2004

**TRADEMARK
PRINCIPAL REGISTER**

WALTHER

UMAREX SPORTWAFFEN GMBH & CO. KG
(FED REP GERMANY LTD LIAB CO)
DONNERFELD 2
59717 ARNSBERG, FED REP GERMANY

FOR: TOY WEAPONS; TOY REPLICAS OF WEAP-
ONS; TOY MODEL KITS OF WEAPONS; TOY DEC-
ORATIVE WEAPONS, IN CLASS 28 (U.S. CLS. 22, 23,
38 AND 50).

FIRST USE 1-0-1996; IN COMMERCE 5-0-2003.

OWNER OF U.S. REG. NOS. 303,701, 1,120,867,
AND 2,714,985.

SEC. 2(F).

SER. NO. 76-511,118, FILED 5-2-2003.

WILLIAM VERHOSEK, EXAMINING ATTORNEY

Generated on: This page was generated by TSDR on 2016-08-31 15:07:42 EDT

Mark: WALTHER



US Serial Number: 76174436

Application Filing Date: Nov. 29, 2000

US Registration Number: 2714985

Registration Date: May 13, 2003

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: May 29, 2013

Publication Date: Feb. 18, 2003

Mark Information

Mark Literal Elements: WALTHER

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Design Search Code(s): 24.09.07 - Banners; Advertising, banners

Foreign Information

Priority Claimed: Yes

Foreign Application Number: 1914597

Foreign Application Filing Date: Oct. 20, 2000

Foreign Registration Number: 1914597

Foreign Registration Date: Feb. 04, 2002

Foreign Application/Registration Country: EUROPEAN (EU) OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM)

Foreign Expiration Date: Oct. 20, 2010

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: [Chemical products for defense, namely, tear gas and combinations of irritant substances, liquid, gaseous or pulverized, also in the form of sprays and for use in pistols and spray devices]

International Class(es): 001 - Primary Class

U.S Class(es): 001, 005, 006, 010, 026, 046

Class Status: SECTION 8 - CANCELLED

Basis: 1(a) 44(e)

First Use: Oct. 01, 2000

Use in Commerce: Oct. 01, 2000

For: Sport knives, knives for use in hunting and fishing, pocket knives [and paring knives]

International Class(es): 008 - Primary Class

U.S Class(es): 023, 028, 044

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Oct. 01, 2000

Use in Commerce: Oct. 01, 2000

For: Telescopes, telescopic gun and lens sights, night glasses for use in hunting

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Oct. 01, 2000

Use in Commerce: Oct. 01, 2000

For: Weapons for self defense, namely, pistols [spray devices and spray cans each filled with tear gasses irritant substance and solution of irritant substance, especially on the basis of spices]

International Class(es): 013 - Primary Class

U.S Class(es): 002, 009

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Oct. 01, 2000

Use in Commerce: Oct. 01, 2000

For: [Watches and Clocks]

International Class(es): 014 - Primary Class

U.S Class(es): 002, 027, 028, 050

Class Status: SECTION 8 - CANCELLED

Basis: 1(a) 44(e)

First Use: Oct. 01, 2000

Use in Commerce: Oct. 01, 2000

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: Yes

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: Yes

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: UMAREX GMBH & CO., KG

Owner Address: DONNERFELD 2
ARNSBERG 59757
GERMANY

Legal Entity Type: GMBH & CO. KG

State or Country Where Organized: GERMANY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Stephen R. Baird

Docket Number: 13132.27

Attorney Primary Email Address: trademark@winthrop.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Stephen R. Baird
WINTHROP & WEINSTINE, P.A.
SUITE 3500
225 SOUTH SIXTH STREET
MINNEAPOLIS, MINNESOTA 55402
UNITED STATES

Phone: (612) 604-6585

Fax: (612) 604-6985

Correspondent e-mail: trademark@winthrop.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Stephen R. Baird

Phone: (612) 604-6585

Fax: (612) 604-6985

Domestic Representative e-mail: sbaird@winthrop.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Aug. 10, 2016	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
May 04, 2016	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
May 29, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
May 29, 2013	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	67603
May 29, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	67603
Apr. 30, 2013	CERTIFICATE OF CORRECTION ISSUED	67603
Apr. 25, 2013	TEAS SECTION 7 REQUEST RECEIVED	
Apr. 25, 2013	TEAS RESPONSE TO OFFICE ACTION-POST REG RECEIVED	
Apr. 24, 2013	POST REGISTRATION ACTION MAILED - SEC. 8 & 9	67603
Apr. 17, 2013	TEAS SECTION 8 & 9 RECEIVED	
May 29, 2009	REGISTERED - PARTIAL SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	67603
May 06, 2009	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
May 06, 2009	TEAS SECTION 8 & 15 RECEIVED	
Jun. 02, 2008	NOTICE OF SUIT	
Feb. 15, 2008	CASE FILE IN TICRS	
Nov. 16, 2006	ATTORNEY REVOKED AND/OR APPOINTED	
Nov. 16, 2006	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
May 13, 2003	REGISTERED-PRINCIPAL REGISTER	
Feb. 18, 2003	PUBLISHED FOR OPPOSITION	
Jan. 29, 2003	NOTICE OF PUBLICATION	
Nov. 18, 2002	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 06, 2002	ASSIGNED TO EXAMINER	76835
Oct. 02, 2002	Sec. 1(B) CLAIM DELETED	67215
Oct. 02, 2002	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Jul. 23, 2002	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jul. 05, 2002	LETTER OF SUSPENSION MAILED	
Sep. 17, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Apr. 02, 2001	NON-FINAL ACTION MAILED	
Mar. 30, 2001	ASSIGNED TO EXAMINER	72519

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: May 13, 2013

Change in Registration: Yes

Correction made to Registration: In the statement, Column 1, Line 2, "Individual" is deleted, and Limited Liability Company is inserted.

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Jun. 06, 2013

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: Carl Walther GmbH

Assignment 1 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5777/0928](#)

Pages: 4

Date Recorded: Apr. 26, 2016

Supporting Documents: [assignment-tm-5777-0928.pdf](#)

Assignor

Name: [CARL WALTHER GMBH](#)

Execution Date: Mar. 16, 2016

Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER
HAFTUNG (GMBH)

State or Country GERMANY
Where Organized:

Assignee

Name: [UMAREX GMBH & CO., KG](#)

Legal Entity Type: GMBH & CO. KG

State or Country GERMANY
Where Organized:

Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD

Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE RECEIVING PARTY NAME PREVIOUSLY RECORDED AT REEL: 005777
FRAME: 0928. ASSIGNOR(S) HEREBY CONFIRMS THE ASSIGNMENT.

Reel/Frame: [5838/0878](#)

Pages: 6

Date Recorded: Jul. 20, 2016

Supporting Documents: [assignment-tm-5838-0878.pdf](#)

Assignor

Name: [CARL WALTHER GMBH](#)

Execution Date: Mar. 16, 2016

Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER
HAFTUNG (GMBH)

State or Country GERMANY
Where Organized:

Assignee

Name: [UMAREX GMBH & CO. KG](#)

Legal Entity Type: KOMMANDITGESELLSCHAFT (KG)

State or Country GERMANY
Where Organized:

Address: DONNERFELD 2
ARNSBERG, GERMANY 59757

Correspondent

Correspondent Name: STEPHEN R. BAIRD

Correspondent Address: 225 SOUTH SIXTH STREET
CAPELLA TOWER, SUITE 3500
MINNEAPOLIS, MN 55402

Domestic Representative - Not Found

Proceedings

Summary

Number of 1
Proceedings:

Type of Proceeding: Opposition

Proceeding Number: [91215976](#)

Filing Date: Apr 18, 2014

Status: Pending

Status Date: Apr 18, 2014

Interlocutory Attorney: CHRISTEN M ENGLISH

Defendant

Name: Catharina Herriger

Correspondent Address: FRANK MICHAEL WEYER
TECHCOASTLAW
2032 WHITLEY AVE
LOS ANGELES CA , 90068-3235
UNITED STATES

Correspondent e-mail: fweyer@techcoastlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	85965968	
WALTHER	Opposition Pending	85965933	

Plaintiff(s)

Name: Carl Walther GmbH, Umarex Sportwaffen GmbH & Co., KG

Correspondent Address: WESLEY D ANDERSON
WINTHROP & WEINSTINE PA
225 SOUTH SIXTH STREET, 3500 CAPELLA TOWER
MINNEAPOLIS MN , 55402-4629
UNITED STATES

Correspondent e-mail: trademark@winthrop.com , sbaird@winthrop.com , mengel@winthrop.com , jbriley@winthrop.com , wanderson@winthrop.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
WALTHER	Renewed	71331019	303701
WALTHER	Renewed	73012340	1120867
WALTHER	Renewed	76511116	2912154
WALTHER	Renewed	76511118	2909647
	Renewed	76537085	3038946
WALTHER	Renewed	76174436	2714985

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Apr 18, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 18, 2014	May 28, 2014
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7	P MOT FOR SUMMARY JUDGMENT	Feb 09, 2015	
8	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 02, 2015	
9	D OPP/RESP TO MOTION	Mar 04, 2015	
10	P REPLY IN SUPPORT OF MOTION	Mar 13, 2015	
11	P MOT FOR SUMMARY JGT GRANTED IN PART	Jun 22, 2015	
12	P REQ FOR RECON	Jul 06, 2015	
13	SUSP PEND DISP OF OUTSTNDNG MOT	Jul 16, 2015	
14	D OPP/RESP TO MOTION	Jul 16, 2015	
15	P REPLY IN SUPPORT OF MOTION	Aug 05, 2015	
16	PROCEEDINGS RESUMED	Nov 09, 2015	

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21	D NOTICE OF RELIANCE	Feb 16, 2016
22	D NOTICE OF RELIANCE	Feb 23, 2016
23	P NOTICE OF RELIANCE	Apr 25, 2016
24	P FINAL BRIEF: TM RULE 2.128	Jun 22, 2016
25	D FINAL BRIEF: TM RULE 2.128	Jul 05, 2016
26	P REPLY BRIEF OR REBUTTAL BRIEF ON COUNTERCLAIM: TM RULE 2.128	Aug 08, 2016
27	P REQ FOR ORAL HEARING	Aug 16, 2016
28	BD ORDER	Aug 17, 2016

United States of America

United States Patent and Trademark Office



Reg. No. 2,714,985

Registered May 13, 2003

Corrected June 4, 2013

Int. Cls.: 8, 9 and 13

CARL WALTHER GMBH (FED REP GERMANY LIMITED LIABILITY COMPANY)
IM LEHRER FELD 1
ULM, FED REP GERMANY 89081

FOR: [CHEMICAL PRODUCTS FOR DEFENSE, NAMELY, TEAR GAS AND COMBINATIONS OF IRRITANT SUBSTANCES, LIQUID, GASEOUS OR PULVERIZED, ALSO IN THE FORM OF SPRAYS AND FOR USE IN PISTOLS AND SPRAY DEVICES], IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

TRADEMARK

FIRST USE 10-1-2000; IN COMMERCE 10-1-2000.

PRINCIPAL REGISTER

FOR: SPORT KNIVES, KNIVES FOR USE IN HUNTING AND FISHING, POCKET KNIVES [AND PARING KNIVES], IN CLASS 8 (U.S. CLS. 23, 28 AND 44).

FIRST USE 10-1-2000; IN COMMERCE 10-1-2000.

FOR: TELESCOPES, TELESCOPIC GUN AND LENS SIGHTS, NIGHT GLASSES FOR USE IN HUNTING, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 10-1-2000; IN COMMERCE 10-1-2000.

FOR: WEAPONS FOR SELF DEFENSE, NAMELY, PISTOLS [SPRAY DEVICES AND SPRAY CANS EACH FILLED WITH TEAR GASSES IRRITANT SUBSTANCE AND SOLUTION OF IRRITANT SUBSTANCE, ESPECIALLY ON THE BASIS OF SPICES], IN CLASS 13 (U.S. CLS. 2 AND 9).

FIRST USE 10-1-2000; IN COMMERCE 10-1-2000.

PRIORITY CLAIMED UNDER SEC. 44(D) ON ERPN CMNTY TM OFC APPLICATION NO. 1914597, FILED 10-20-2000, REG. NO. 1914597, DATED 2-4-2002, EXPIRES 10-20-2010.

SER. NO. 76-174,436, FILED 11-29-2000.



Leea Street Lee

Acting Director of the United States Patent and Trademark Office

EXHIBIT B

This decision is not a precedent
of the Trademark Trial and
Appeal Board.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Baxley

Mailed: June 22, 2015

Opposition No. 91215976


Carl Walther GmbH and Umarex
Sportwaffen GmbH & Co., KG

v.

Catharina Herriger

Before Seeherman, Quinn, and Shaw,
Administrative Trademark Judges.

By the Board:

Catharina Herriger (“Applicant”) filed, on June 20, 2013, intent-to-use applications to register the mark WALTHER in standard character form¹ (“Applicant’s word mark”) and the following design mark, , (“Applicant’s design mark”),² both for “[j]ewellery and watches” in International Class 14.

Carl Walther GmbH (“Walther”) and its asserted “related party,” Umarex Sportwaffen GmbH & Co. KG (“Umarex”), (collectively “Opposers”), filed a notice of opposition to registration of Applicant’s marks on the grounds of likelihood of confusion and dilution. In particular, Opposers have alleged previous use and

¹ Application Serial No. 85965933.

² Application Serial No. 85965968.

registration of several WALTHER marks,³ including Walther's design mark



for “[t]oy weapons, namely, toy replicas of weapons” in International

Class 28⁴ and its mark WALTHER and design in the following form, , for

“[s]port knives, knives for use in hunting and fishing, pocket knives” in


International Class 8, “[t]elescopes, telescopic gun and lens sights, night glasses for

use in hunting” in International Class 9, and “[w]eapons for self defense, namely,

³ In the notice of opposition, Opposers allege that they own “numerous trademark registrations for WALTHER, the Walther Ribbon Design, and combinations thereof.” Opposers have attached as exhibits to their notice plain or “soft copies” of certificates for their six pleaded registrations as Exhibit A. However, International Armament Corporation is identified as the registrant in the copy of pleaded Registration No. 303701 for WALTHER and design. Further, plain copies of registrations are insufficient to make those registrations of record under Trademark Rule 2.122(d). *See Syngenta Crop Protection Inc. v. Bio-Chek LLC*, 90 USPQ2d 1112, 1116-17 (TTAB 2009); TBMP § 704.04(b)(1)(A) (2014). The registration copies “prepared and issued by the United States Patent and Trademark Office showing both the current status of and current title to the registration,” as contemplated by Rule 2.122(d), are printed copies of the registration on which the Office has entered the information it has in its records, at the time it prepares the status and title copies, such as information about the renewal, affidavits or declarations under Trademark Act Sections 8, 15, and 71, 15 U.S.C. §§ 1058, 1065, and 1141k; and recorded documents transferring title. *See Industrial Adhesive Co. v. Borden, Inc.*, 218 USPQ 945, 947 (TTAB 1983); TBMP § 704.04(b)(1)(A). An opposer may also make such registrations of record by submitting a current printout of the information of the registration from the electronic database records of the USPTO showing the current status and title of the registration. *See* Trademark Rule 2.122(d).

As noted *infra*, Opposers have submitted status and title copies of their pleaded registrations taken from the electronic records of the Patent and Trademark Office reasonably contemporaneously with the filing of the motion for summary judgment, with the declaration of their counsel, Wesley Anderson. In view thereof, we refer to the details of the registrations. However, it should be noted that, because Opposers did not make them of record with their pleading as provided by Trademark Rule 2.122(d), they are of record only for the purpose of deciding the motion for summary judgment.

⁴ Registration No. 3038946, issued January 10, 2006, Section 8 affidavit accepted, Section 15 affidavit acknowledged.

pistols” in International Class 13;⁵ and Umarex’s mark WALTHER in typed form for “hunting and sport rifles, pistols, revolvers and shot guns” in International Class 13⁶ and for “[t]oy weapons; toy replicas of weapons” in International Class 28⁷ and WALTHER and design in the following form, , for “[t]oy weapons; toy replicas of weapons” in International Class 28.⁸ Applicant in her answer denied the salient allegations of the notice of opposition.

This case now comes up for consideration of (1) Opposers’ motion (filed February 9, 2015) for leave to file an amended notice of opposition in which they add a claim that Applicant had no bona fide intent to use the mark when she filed her applications; and (2) Opposers’ motion (filed February 9, 2015) for summary judgment on the grounds of likelihood of confusion and no bona fide intent to use the involved marks as of the applications’ filing date.⁹ The motions have been fully briefed.

⁵ Registration No. 2714985, issued May 13, 2003, renewed. In the notice of opposition, Opposers allege that such registration originally included “watches and clocks” in International Class 14 and that Walther deleted those goods from the registration when it filed its Section 8 affidavit in 2009.

⁶ Registration No. 1120867, issued June 26, 1979, with a claim of distinctiveness under Trademark Act Section 2(f), 15 U.S.C. § 1052(f), renewed twice.

⁷ Registration No. 2909647, issued December 14, 2004, with a claim of distinctiveness under Trademark Act Section 2(f), renewed.

⁸ Registration No. 2912154, issued December 21, 2004, renewed.

⁹ In their motions, Opposers refer to themselves collectively as “Walther.” When there are multiple plaintiffs or defendants, they should not refer to themselves collectively by an abbreviation that points to one of them.

We will first consider the motion for leave to amend. Under Fed. R. Civ. P. 15(a), leave to amend pleadings shall be freely given when justice so requires. Consistent therewith, the Board liberally grants leave to amend pleadings at any stage of the proceeding when justice requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party or parties. *See, e.g., Commodore Elecs. Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503 (TTAB 1993); *United States Olympic Committee v. O-M Bread Inc.*, 26 USPQ2d 1221 (TTAB 1993).

A motion for leave to amend should be filed promptly upon the discovery of any ground for such amendment, e.g., newly discovered evidence, becomes apparent. *See* TBMP § 507.02 and cases cited therein. A long delay in filing a motion for leave to amend may render the amendment untimely. *See Int'l Finance Co. v. Bravo Co.*, 64 USPQ2d 1597, 1604 (TTAB 2002).

By the proposed amended notice of opposition, Opposers seeks to add a claim that Applicant did not have a bona fide intent to use the involved marks in commerce when she filed her intent-to-use applications on June 20, 2013. Lack of a bona fide intent to use a mark is a proper basis upon which to challenge an application or registration. *See M.Z. Berger & Co., Inc. v. Swatch AG*, __ F.2d __, __ USPQ2d __, No. 14-1219, slip op. at 11 (Fed. Cir. June 4, 2015), *affirming Swatch AG v. M.Z. Berger & Co.*, 108 USPQ2d (BNA) 1463 (TTAB 2013). Because the proposed new claim is largely based on information that Opposers obtained (1) on August 25, 2014 in Applicant's responses to the first set of discovery requests that

Opposers served on July 28, 2014 and (2) on January 14, 2015 in Applicant's responses to the second set of requests for admissions that Opposers served on December 23, 2014, we are satisfied that Opposers acted promptly upon being made aware of the information that give rise to the claim. Moreover, Applicant has pointed to no specific prejudice, such as lost evidence or unavailable witnesses, that would result from allowing Opposers to add the proposed claim. That is, Applicant has made no showing that her ability to defend this proceeding would be adversely affected by allowing the additional claim to go forward. *See Pratt v. Philbrook*, 109 F.3d 18 (1st Cir. 1997). In addition, in view of Applicant's failure to produce any documents in response to document requests in connection with activities that Applicant has undertaken in preparation to use her marks, Applicant's assertion in her brief in opposition that Opposers lack a good faith basis for alleging lack of a bona fide intent is not well taken.¹⁰ *See Commodore Elecs. Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d at 1507 ("[A]bsent other facts which adequately explain or

¹⁰ In responding to Opposers' document requests, Applicant identified the "file histories" of her applications as documents responsive to all of Opposers' document requests, but failed to produce any documents regarding:

- (1) the selection, clearance and adoption of her marks (request nos. 1-6),
- (2) her bona fide intent to use those marks on or prior to the June 20, 2013 application filing date (request no. 10),
- (3) goods that Applicant has sold, sells or intends to sell under the marks (request no. 12),
- (4) communications with any advertising agency or public relations firm regarding the marks (request no. 14),
- (5) media coverage that refers to Applicant's marks (request no. 15),
- (6) business and marketing plans related to the marks (request nos. 26-27),
- (7) product development for the identified goods to be sold under the marks (request nos. 28-29),
- (8) her ability to manufacture the identified goods under the marks, including requests for quotes from vendors and contracts related to manufacturing the identified goods under the marks (request nos. 31-32), and
- (9) targeted purchasers of goods to be sold under the marks (request no. 33).

outweigh the failure of an applicant to have any documents supportive of or bearing upon its claimed intent to use its mark in commerce, the absence of any documentary evidence on the part of an applicant regarding such intent is sufficient to prove that the applicant lacks a bona fide intention to use its mark in commerce as required by Section 1(b).”). Accordingly, Opposers’ motion for leave to file an amended notice of opposition is hereby granted. The amended notice of opposition is the operative complaint herein.

We now turn to Opposers’ motion for summary judgment on the pleaded grounds of no bona fide intent to use the marks and likelihood of confusion. Summary judgment is an appropriate method of disposing of cases in which there are no genuine disputes as to any material fact, thus leaving the case to be resolved as a matter of law. *See* Fed. R. Civ. P. 56(c). The party moving for summary judgment has the initial burden of demonstrating that there is no genuine dispute of material fact remaining for trial and that it is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317 (1987). In considering the propriety of summary judgment, all evidence must be viewed in a light most favorable to the nonmovant, and all justifiable inferences are to be drawn in the nonmovant’s favor. The Board may not resolve issues of material fact; it may only ascertain whether such issues are present. *See Lloyd’s Food Products Inc. v. Eli’s Inc.*, 987 F.2d 766, 25 USPQ2d 2027 (Fed. Cir. 1993); *Opryland USA Inc. v. Great American Music Show Inc.*, 970 F.2d 847, 23 USPQ2d 1471 (Fed. Cir. 1992); *Olde Tyme Foods Inc. v. Roundy’s Inc.*, 961 F.2d 200, 22 USPQ2d 1542 (Fed. Cir. 1992).

Thus, as the movants, Opposers have the burden of establishing the absence of any genuine disputes of material fact for trial and that they are entitled to judgment as a matter of law. For the Board to grant Opposers' motion for summary judgment, Opposers must establish that there is no genuine dispute (1) as to their standing and (2) the necessary elements to establish either of the claims at issue in their motion; they must also establish that they are entitled to entry of judgment as a matter of law. *See Fram Trak Industries Inc. v. WireTracks LLC*, 77 USPQ2d 2000, 2004 (TTAB 2006).

As an initial matter, there is no genuine dispute that Opposers have standing to maintain this proceeding because Opposers have submitted status and title copies of their pleaded registrations. *See Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1844 (Fed. Cir. 2000). In particular, Opposers submitted title and status copies obtained from the USPTO's TSDR database on January 28, 2015 of Umarex's pleaded Registration Nos. 303701, 1120867, 2909647 and 2912154 and Walther's pleaded Registration Nos. 2714985 and 3038946 as exhibits E through J of the motion for summary judgment.

Regarding Opposers' claim that Applicant had no bona fide intent to use her marks at the time of filing the applications, Trademark Act Section 1(b), 15 U.S.C. § 1051(b), states that "a person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce" may apply for registration of the mark. A bona fide intent to use the mark in commerce at the time of the application requires objective evidence of intent. *See M.Z. Berger & Co.*,

slip. op. at 14. The Board may determine the claim of no bona fide intent to use on a case-by-case basis, considering the totality of the circumstances. *Id.* The evidentiary bar for an applicant to show it had a bona fide intent to use is not high, but the circumstances must indicate that the applicant's intent to use the mark was firm and not merely an intent to reserve a right in the mark. *See id.*; *Boston Red Sox Baseball Club LP v. Sherman*, 88 USPQ2d 1581, 1587 (TTAB 2008); *Lane Ltd. v. Jackson Int'l Trading Co.*, 33 USPQ2d 1351, 1355 (TTAB 1994). An applicant's bona fide intent to use a mark may be contingent on the outcome of an event (that is, market research or product testing) and must reflect an intention to use the mark "in the ordinary course of trade." *Commodore Elecs. Ltd.*, 26 USPQ2d at 1507 (quoting Trademark Act Section 45, 15 U.S.C. § 1127, and citing Senate Judiciary Comm. Rep. on S. 1883, S. Rep. No. 515, 100th Cong., 2d Sess. 24-25 (1988)). In determining whether an applicant had the requisite intent-to-use, an applicant's capacity to market and/or manufacture the identified goods weighs against a finding that an applicant lacked a bona fide intent to use. *See Wet Seal, Inc. v. FD Mgmt., Inc.*, 82 USPQ2d 1629, 1643 (TTAB 2007) ("Merely because applicant may not have taken steps to actually launch or introduce a particular product does not mean that applicant otherwise had no intention to develop or market the product.").

Because of Applicant's failure, in response to Opposers' discovery requests, to produce documents that would support her asserted bona fide intent to use, Opposers made a *prima facie* showing that Applicant did not have a bona fide intent to use the involved marks when she filed her applications. *See Commodore Elecs.*

Ltd., 26 USPQ2d at 1507 n.11. However, in response to the motion for summary judgment, Applicant notes her response to Opposers' interrogatory no. 15, wherein she states that she "is a trained gemologist and has worked for several Swiss watch and jewelry manufacturers, including Rolex, and as a result has experience in watch and jewelry manufacture."¹¹ We find that Applicant's training and experience with respect to the goods identified in her application are sufficient to raise a

¹¹ Applicant also referred to other actions and submitted additional documents in response to the motion for summary judgment, references and evidence to which Opposers have objected. In her brief in opposition, Applicant refers to a trademark search that her attorney conducted in connection with her applications, but did not include a copy of any search report as an exhibit to the brief in opposition. In their reply brief, Opposers objected to such reference, alleging that the trademark search report was not disclosed in discovery in response to document request nos. 3 and 4 and interrogatory no. 7, where Opposers expressly sought information and documents regarding steps taken to determine the availability of her involved marks. In response to the document requests, Applicant responded that no "responsive and discoverable documents exist." In response to the interrogatory, Applicant asserted attorney-client privilege.

A party who has refused to produce information sought in a discovery request based on an assertion of attorney-client privilege may not thereafter rely on the information as evidence in its behalf in connection with a motion for summary judgment. *See Presto Products Inc. v. Nice-Pak Products Inc.*, 9 USPQ2d 1895, 1896 n.5 (TTAB 1988). In view of Applicant's refusal to identify her trademark clearance search in discovery based on an assertion of attorney-client privilege, she may not rely on that search as evidence at any stage of this proceeding. *See Fed. R. Civ. P. 37(c)(1)*.

Applicant also refers in her brief in response to her registration of the domain name *walther.us* in August 2013, and she submitted a printout of an excerpt from the website www.networksolutions.com which indicates that Applicant's attorney registered that website name with www.godaddy.com on August 14, 2013. Opposers object to such reference and submission on the ground that the domain name was not disclosed in response to document request no. 10 and interrogatory no. 15, wherein Opposers sought information and documents that support Applicant's bona fide intent to use the involved marks. Although Applicant did not disclose information and documents regarding the website in response to discovery requests, she did not unequivocally refuse to produce such information and documents. Accordingly, it would be unduly harsh to preclude Applicant from relying on them in opposition to the motion for summary judgment. *See Vignette Corp. v. Marino*, 77 USPQ2d 1408, 1410-11 (TTAB 2005). Therefore, we have considered information and documents regarding that website, but note that it is entitled to minimal probative weight. *See Saul Zaentz Co. v. Bumb*, 95 USPQ2d 1723, 1727-28 (TTAB 2010) (registration of domain names without taking any steps to construct or operate websites under any of those domain names insufficient to show a *bona fide* intent to use).

genuine dispute as to whether Applicant had a bona fide intent to use the marks on the identified goods at the time of the filing of the applications. *See Wet Seal, Inc. supra*. In view thereof, Opposers' motion for summary judgment on their no bona fide intent to use claim is hereby denied.

Regarding the motion for summary judgment on the Section 2(d) claim, Opposers must establish that there is no genuine dispute that (1) they are either prior users of their pleaded marks or that they own valid and subsisting registrations for those marks; and (2) that contemporaneous use of the parties' respective marks on their respective goods would be likely to cause confusion or mistake or to deceive consumers. *See King Candy Co. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 182 USPQ 108, 111 (CCPA 1974); *Hornblower & Weeks, Inc. v. Hornblower & Weeks, Inc.*, 60 USPQ2d 1733, 1735 (TTAB 2001).

Opposers have submitted status and title copies of their pleaded registrations. Therefore, there is no genuine dispute that priority is not an issue. *See King Candy Co., supra*.

We will first decide the motion for summary judgment with regard to Applicant's word mark, considering the issue of likelihood of confusion in light of the relevant *du Pont* factors. *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973).

With respect to the factor of the similarity or dissimilarity of the marks, there is no genuine dispute that Applicant's word mark is in all respects identical to the word mark in Umarex's pleaded Registration Nos. 1120867 and 2909647. This

factor weighs heavily in favor of Opposers. In fact, when marks are identical, there need only be a “viable relationship” between the goods to find that there is a likelihood of confusion. *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1439 (TTAB 2012); *In re Thor Tech Inc.*, 90 USPQ2d 1634, 1636 (TTAB 2009).

Because Opposers have submitted status and title copies of their pleaded registrations, we look to the express wording of the identifications of goods in the application and registrations for purposes of determining likelihood of confusion. *See Octocom Sys. Inc. v. Houston Computers Servs. Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990); *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981). As noted *supra*, the goods identified in the application for Applicant’s word mark are “[j]ewellery and watches;” Umarex’s Registration No. 1120867 is for “hunting and sport rifles, pistols, revolvers and shot guns;” and the goods identified in Walther’s Registration No. 2909647 are “[t]oy weapons; toy replicas of weapons.” Where the goods in an application or registration are broadly described and there are no limitations in the identification of goods as to their nature, type, channels of trade or classes of purchasers, we must presume that the scope of the application or registration encompasses all goods of the nature and type described, that the identified goods move in all channels of trade that would be normal for such goods, and that the goods would be purchased by all potential customers. *See In re Elbaum, supra*.

Through the declaration of their attorney, Wesley Anderson, Opposers have submitted printouts from third-party websites that show “personal defense products” and jewelry and watches are sold by the same entity under the same mark.¹² Such printouts include:

(1) www.beretta.com, showing pistols, shotguns, air guns, air soft guns, necklaces, bracelets, cuff links, earrings, and watches offered for sale under the BERETTA mark (exhibit L);

(2) www.colt.com, showing pistols, belt buckles, and jewelry pins offered for sale under the COLT mark (exhibit M);

(3) www.ruger.com, showing pistols and earrings offered for sale under the RUGER mark (exhibit O);

(4) www.smith-wesson.com and www.amazon.com, showing pistols, watches, and knives offered for sale under the SMITH & WESSON mark (exhibit P); and

(5) www.uzi.com, showing pistols, knives, submachine guns, and watches offered for sale under the UZI mark (exhibit Q);

In addition, through the Anderson declaration, Opposers have submitted status and title copies of valid and subsisting use-based third-party registrations which

¹² Opposers also submitted a copy of use-based Registration No. 4195329 for the mark SAAB in stylized form for goods and services in International Classes 7, 9, 12, 13, 14, 16, 17, 18, 22, 24, 25, 28, 35, 36, 37, 38, and 39, including “guns and rifles” in International Class 13, and “horological and chronometric instruments” and “jewellery” in International Class 14. Because this registration includes goods and services far removed from those at issue in this proceeding -- such as “machine tools for maintenance and preparing material within an airport, namely, metal cable wire for towing, hydraulic jacks,” “space vehicles for the transport of persons and payload into and through outer space” and “intellectual property consultancy” -- it is of minimal probative value. *See Hilson Research Inc. v. Soc. for Human Resource Mgt.*, 27 USPQ2d 1423 (TTAB 1993).

show that third parties have registered a single mark for the goods at issue. Such registrations include the following:

(1) Registration No. 587116 for the mark BERETTA in typed form for “pistols, shotguns, and parts thereof” in International Class 13, and Registration No. 1611180 for the mark BERETTA in typed form for “watches” in International Class 14 (exhibit S);

(2) Registration No. 1032950 for the mark COLT in stylized form for “tie fasteners, cuff links, and buckles, all of which are made of precious metal” in International Class 14; and “tie fasteners, cuff links, and buckles, all of which are made of non-precious metal” in International Class 26, and Registration No. 1599500 for the mark COLT in the same stylized form for “pistols, revolvers, and rifles” in International Class 13 (exhibit T); and

(3) Registration No. 53994 for the mark WINCHESTER in typed form for “shotguns and rifles” in International Class 13 (exhibit X), and Registration No. 1558947 for the mark WINCHESTER in typed form for “watches” in International Class 14 (exhibit X).

Third-party registrations may be used to suggest that the goods at issue are of a kind that may emanate from a single source. *See In re Infinity Broad. Corp.*, 60 USPQ2d 1214, 1217-18 (TTAB 2001); *In re Albert Trostel & Sons Co.*, 29 USPQ2d at 1785-86. Although three third-party registrations would not, alone, be sufficient to demonstrate that firearms and jewelry are related goods, the registrations serve to support the evidence of actual use shown by the webpages.

Through the Anderson declaration, Opposers have also submitted printouts from third-party websites that show “personal defense products” and jewelry and watches are sold in the same online retail stores. Such printouts include:

(1) www.basspro.com, showing firearms and watches offered for sale at BASS PRO SHOPS online retail stores (exhibit Y);

(2) www.cabelas.com, showing firearms, watches, and jewelry offered in the CABELA’S online retail store (exhibit Z);

(3) www.gandermountain.com, showing firearms and watches offered in the GANDER MOUNTAIN online retail store (exhibit AA); and

(4) www.gunbroker.com, showing firearms, watches, and lapel pins offered in the GUNBROKER.COM online retail store (exhibit AB).

By the evidence submitted in support of the motion for summary judgment, Opposers have met their initial burden of showing that Applicant’s jewelry and watches and Umarex’s pistols are related goods. In particular, Opposers have submitted evidence that certain third parties use their marks both on pistols and on jewelry and watches. Further, Opposers have shown that such goods are sold in the same trade channels, such as online retail sporting goods stores, online outdoor equipment stores, and online gun equipment stores.

Based on the foregoing, that is, the identity of the marks, the relatedness of the goods, and the overlapping trade channels, we find that Opposers have met their initial burden of showing that there is no genuine dispute as to any material fact and that they are entitled to entry of judgment as a matter of law. *See Kellogg Co. v.*

Pack'em Enters. Inc., 951 F.2d 330, 21 USPQ2d 1142, 1145 (Fed. Cir. 1991) (there is no reason that a single *duPont* factor may not be dispositive). Here, Opposers have shown that three *duPont* factors favor a finding of likelihood of confusion.¹³

When the moving party's motion is supported by evidence sufficient to indicate that there is no genuine dispute of material fact, and that the moving party is entitled to judgment, the burden shifts to the nonmoving party to demonstrate the existence of specific genuinely-disputed facts that must be resolved at trial. The nonmoving party may not rest on the mere allegations of its pleadings and assertions of counsel, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine issue of material fact. In general, to establish the existence of disputed facts requiring trial, the nonmoving party "must point to an evidentiary conflict created on the record at least by a counterstatement of facts set forth in detail in an affidavit by a knowledgeable affiant." *Octocom Sys. Inc. v. Houston Computer Servs. Inc.*, 16 USPQ2d at 1786.

In response to the motion for summary judgment, Applicant essentially relies on assertions of her attorney. Applicant contends that Opposers' motion for summary

¹³ Opposers also assert that their marks are famous and therefore entitled to a broad scope of protection. However, because we cannot find, on the basis of the evidence submitted by Opposers, that they have established that there is no genuine dispute as to the fame of their mark, for purposes of this motion we have treated the mark as not being famous; thus, this factor is neutral in our analysis. Nonetheless, we need not determine that Opposers' marks are famous to grant summary judgment on Opposers' likelihood of confusion claim.

We also note Opposers' argument that Applicant adopted her mark in bad faith because she has been aware of Opposers' marks since she was a child, when she saw the marks used by her great-great-grandfather, Carl Walther. Although bad faith adoption can be considered in determining likelihood of confusion, it is not a necessary element to proving this ground. Therefore, for purposes of this motion, we do not treat Applicant's adoption of her mark as being in bad faith, and therefore this does not raise a genuine dispute of material fact.

judgment must fail because Opposers submitted arguments and evidence with regard to only five of the thirteen factors set forth in *In re E. I. du Pont de Nemours & Co.* Applicant's position is incorrect. Only those relevant factors for which there is evidence in the record must be considered. *Id.*, 177 USPQ at 567-68; TMEP § 1207.01 (January 2015). Indeed, as noted above, a single *du Pont* factor can be sufficient to warrant entry of summary judgment.

Although Applicant refers to third-party registrations for marks containing the word WALTHER or its alleged English equivalent WALTER, Applicant did not submit copies of any such registrations. Applicant's list of such registrations is not proper evidence of third-party registrations. *See, e.g., In re Promo Ink*, 78 USPQ2d 1301, 1304 (TTAB 2006); *In re Dos Padres, Inc.*, 49 USPQ2d 1860, 1861 n.2 (TTAB 1998); TBMP § 1208.02. Rather, to make registrations of record, copies of the registrations or the electronic equivalent thereof (i.e., printouts or electronic copies of the registrations taken from the electronic database of the USPTO) must be submitted. *In re Ruffin Gaming, LLC*, 66 USPQ2d 1924, 1925 n.3 (TTAB 2002); *In re Smith & Mehaffey*, 31 USPQ2d 1531, 1532 n.3 (TTAB 1994); TMEP § 1207.01(d)(iii).

Applicant asserts that the parties' goods "could not be more different," contending that the fact Colt, Remington, and Smith & Wesson sell watches and/or jewelry is evidence of the "fame and public admiration" of those companies and not of the relatedness of the parties' goods. However, Applicant did not rebut Opposers' evidence with any evidence of her own, such as webpages showing that other

firearm manufacturers do not also sell watches and/or jewelry on their websites, or that these three third parties sell a wide variety of seemingly unrelated goods under their “famous” marks. Further, Applicant’s unsupported assertion that the parties’ goods legally cannot travel in the same trade channels is directly contradicted by the evidence of record. Accordingly, we find that Applicant has failed to raise a genuine dispute as to any material fact with regard to Opposers’ likelihood of confusion claim against the application to register Applicant’s word mark.

In view thereof, Opposers’ motion for summary judgment on the ground of likelihood of confusion is granted with regard to Applicant’s word mark. Judgment is hereby entered against Applicant and registration of Applicant’s word mark, Application Serial No. 85965933, is refused.

With regard to Applicant’s design mark, however, Opposers’ identical mark is Walther’s Registration No. 3038946 for “[t]oy weapons, namely, toy replicas of weapons” in International Class 28. Although the design mark forms a portion of Opposers’ pleaded WALTHER and design mark in Registration Nos. 303701, 2714985, and 2912154, the word portion of a mark, rather than any design portion, is generally the dominant element in creating the commercial impression of a mark because it is most likely to be impressed upon purchasers’ memories and to be used in calling for the goods. *See Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 64 USPQ2d 1375 (Fed. Cir. 2002) (words are dominant portion of mark). Accordingly, with respect to the issue of likelihood of confusion between Applicant’s

design mark and Opposers' WALTHER and design mark, we find that there is, at a minimum, a genuine dispute as to the similarity or dissimilarity of the marks.

As for Walther's Registration No. 3038946 for the identical mark to Applicant's design mark, it is for "[t]oy weapons, namely, toy replicas of weapons." We note that one entity owns use-based third-party registrations for the mark UZI, No. 3104546 for "toys, namely soft air gun replicas; toy guns," and No. 3389977 for "watches." However, we cannot conclude, based on this single set of third-party registrations, that Opposers have established that Walther's identified "toy weapons, namely, toy replicas of weapons" and watches are related goods. Accordingly, we find that Opposers have failed to establish that there is no genuine dispute that the goods are related. In view thereof, the motion for summary judgment is denied with regard to Applicant's design mark.

In sum, the motion for summary judgment is hereby granted with regard to the likelihood of confusion claim against Applicant's word mark, but is denied with regard to the likelihood of confusion claim against Applicant's design mark. It is also denied with respect to the lack of a bona fide intent to use claim against both of Applicant's applications. Opposer is allowed until twenty days from the mailing date of this order to inform the Board in writing if it wishes to pursue the no bona fide intent to use ground and the dilution ground against Applicant's word mark, failing which this proceeding will go forward to trial against Applicant's design mark only, on the no bona fide intent to use, likelihood of confusion and dilution grounds, on the following schedule.

Plaintiff's Pretrial Disclosures Due	7/4/2015
Plaintiff's 30-day Trial Period Ends	8/18/2015
Defendant's Pretrial Disclosures Due	9/2/2015
Defendant's 30-day Trial Period Ends	10/17/2015
Plaintiff's Rebuttal Disclosures Due	11/1/2015
Plaintiff's 15-day Rebuttal Period Ends	12/1/2015

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125. Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129. If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No.: 86/824,552
Filed: November 18, 2015
For the mark: WALTHER SWITZERLAND
Published in the *Trademark Official Gazette* on May 3, 2016

Carl Walther GmbH and
UMAREX GmbH & Co. KG,

Opposers,

v.

Opposition No. _____

Catharina Herriger,

Applicant

CERTIFICATE OF SERVICE BY MAIL

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Wesley D. Anderson, of the City of Minneapolis, County of Hennepin, in the State of Minnesota, says that on the 31st day of August, 2016, he mailed by First Class mail, a true and correct copy of:

1. Opposers' Notice of Opposition

in the above-captioned action to the following last known correspondence address of record identified in the Trademark Status and Document Retrieval online database for the record owner, to-wit:

Frank Michael Weyer, Techcoastlaw, 2032 Whitley Ave, Los Angeles, CA 90068-3235



Wesley D. Anderson